

AMENDED IN SENATE AUGUST 31, 2005

AMENDED IN ASSEMBLY APRIL 27, 2005

AMENDED IN ASSEMBLY APRIL 11, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 1165**

**Introduced by Assembly Member Bogh**

February 22, 2005

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An act to amend Section ~~25519~~ of the ~~Public Resources~~ *1250.310 of the Code of Civil Procedure*, to amend Section 14074 of the Corporations Code, to amend Sections 17910.1, 17911.2, 17911.3, 17911.4, 17911.6, 17912, 17912.2, 17925, and 41304 of the Education Code, to amend Sections 32321, 32322, 32940, and 32942 of, and to repeal Section 32208 of, the Financial Code, to amend Sections 9100 and 9101 of the Fish and Game Code, to amend Sections 11550, 11553, 12802.5, 12805, 14450, 14684, 14684.1, 15814.22, 15814.23, 15814.30, 15814.34, 66645, and 66646 of, and to amend and renumber Section 15814.25 of, the Government Code, to amend Sections 3808, 3822.1, 3822.2, 4799.16, 6815.2, 14584, 21080, 25104, 25106, 25107, 25110, 25112, 25205, 25207, 25212, 25214, 25215, 25216, 25216.5, 25217.1, 25218, 25218.5, 25219, 25220, 25221, 25222, 25223, 25224, 25225, 25226, 25301, 25302, 25303, 25304, 25305, 25305.5, 25306, 25320, 25321, 25322, 25323, 25324, 25354, 25356, 25357, 25358, 25362, 25364, 25366, 25400, 25401, 25401.2, 25401.5, 25401.6, 25401.7, 25402, 25402.1, 25402.3, 25402.6, 25402.9, 25403, 25403.5, 25403.8, 25404, 25410.5, 25410.6, 25412, 25413, 25414, 25415, 25416, 25417, 25417.5, 25419, 25420, 25426, 25433.5, 25434, 25434.5, 25435, 25436, 25441, 25442, 25442.5, 25442.7, 25443, 25443.5, 25445, 25449, 25449.1, 25449.2, 25449.3, 25494, 25496, 25509.5, 25519, 25521, 25531, 25534, 25601,



25602, 25603, 25603.5, 25608, 25610, 25616, 25617, 25618, 25619, 25620, 25620.1, 25620.2, 25620.3, 25620.4, 25620.5, 25620.6, 25620.7, 25620.8, 25620.9, 25620.10, 25620.11, 25630, 25678, 25679, 25696, 25696.5, 25697, 25700, 25701, 25702, 25703, 25704, 25705, 25720, 25721, 25722, 25722.5, 25723, 25730, 25741, 25742, 25743, 25744, 25745, 25747, 25748, 25749, 25750, 25751, 25771, 25803, 25900, 25901, 25902, 25911, 25942, 25967, 25968, 26004, 26011.5, 26011.6, and 30404 of, to amend the heading of Chapter 3 (commencing with Section 25200) of Division 15 of, to add Sections 3806.5, 25104.1, 25104.2, 25205.5, 25207.5, and 25208 to, to add Chapter 3.5 (commencing with Section 25227) to Division 15 of, to repeal Sections 3805.5, 25213, 25217, and 25217.5 of, and to repeal and add Sections 25200, 25201, 25202, 25203, 25204, and 25206 of, the Public Resources Code, to amend Sections 332.1, 348, 350, 352, 353.7, 360, 365, 366.1, 366.2, 381, 383, 384, 398.2, 398.3, 398.5, 399.1, 399.6, 399.7, 399.8, 399.11, 399.12, 399.13, 399.15, 399.16, 454.5, 464, 848.1, 1001, 1731, 1768, 1822, 2774.6, 2826.5, 2826.6, 2827, 3302, 3310, 3320, 3330, 3341, 3341.1, 3341.2, 3345, 3370, and 9502 of, to add Sections 322, 345.1, 345.2, 1001.1, and 1001.2 to, to repeal Sections 383.6, 399.1, 454.5, 3325, 3326, and 3327 of, to repeal Article 2 (commencing with Section 334) of Chapter 2.3 of Part 1 of Division 1 of, and to repeal and add Section 3340 of, the Public Utilities Code, and to amend Section 80000 of, and to add Sections 80001 and 80001.5 to, the Water Code, relating to energy resources.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1165, as amended, Bogh. Energy resources: ~~certification: environmental documents~~ energy agency reorganization: Department of Energy: California Energy Commission: Office of Energy Market Oversight.

Existing law establishes the State Energy Resources Conservation and Development Commission, the California Consumer Power and Conservation Financing Authority, and the Electricity Oversight Board with jurisdiction related to energy matters. Existing law provides the California Public Utilities Commission with jurisdiction over the certification of natural gas and electric facilities. Existing law also provides the Office of Planning and Research, the Department of Water Resources, the Department of General Services,



*and the Office of the State Architect with jurisdiction over certain energy-related matters.*

*This bill would abolish the State Energy Resources and Conservation Commission, the California Consumer Power and Conservation Financing Authority, and the Electricity Oversight board. The measure would create the Department of Energy, headed by a Secretary of Energy, and would create the California Energy Commission and the Office of Energy Market Oversight within the department. The bill would provide for the creation of various divisions and subdivisions as deemed necessary by the secretary. The secretary would be appointed by, and hold office at the pleasure of, the Governor, subject to confirmation by the Senate. The bill would authorize the Governor to appoint an Assistant Secretary of Energy who would serve at the pleasure of the secretary.*

*The bill would provide that the California Energy Commission consists of the following members: (1) the Secretary of Energy who would be the chair of the commission, (2) four members of the public with qualifications, as specified, appointed by the Governor, subject to confirmation by the Senate, (3) the president of the California Independent System Operator, and (4) the president of the California Public Utilities Commission. The bill would provide that the president and chief executive officer of the California Independent System Operator and the president of the California Public Utilities Commission serve as ex officio, nonvoting members of the commission. The bill would specify that the public members serve for a term of 4 years.*

*The bill would vest the Office of Energy Market Oversight with the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Electricity Oversight Board.*

*The bill would vest the new department and the California Energy Commission with the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the State Energy Resources Conservation and Development Commission and the California Consumer Power and Conservation Financing Authority, as specified.*

*The bill would transfer jurisdiction over the issuance of certificates of public convenience and necessity for certain electric facilities from the Public Utilities Commission to the Department of Energy or the California Energy Commission.*

*The bill would also transfer jurisdiction of certain energy-related matters from the Office of Planning and Research, the Department of*



*Water Resources, the Department of General Services, and the Office of the State Architect to the Department of Energy or the California Energy Commission, as specified. The bill would also rename the California Consumer Power and Conservation Authority Fund as the California Consumer Power and Conservation Fund.*

*The bill would make conforming changes in existing law.*

~~The existing Warren-Alquist State Energy Resources Conservation and Development Act requires that the State Energy Resources Conservation and Development Commission be the lead agency for all projects that require certification under the act, and for projects that are exempted from certification. The act requires any other public agency that must make a decision that is subject to the California Environmental Quality Act (CEQA), if the commission prepares a document or documents in the place of an environmental impact report or negative declaration under a regulatory program certified pursuant to CEQA, on a site or related facility, to use the document or documents, in the same manner as it would use an environmental impact report or negative declaration prepared by a lead agency.~~

~~This bill, instead, would require any other agency that must make a decision that is subject to CEQA, on a site or related facility, if the commission's regulatory program is certified pursuant to CEQA, to use the proposed decision of the commission or of a committee of the commission, prepared in advance of the final decision under the commission's certified regulatory program, that describes the project, analyzes the significant environmental impacts of the project, and discusses feasible alternatives and mitigation measures that could avoid or minimize the project's significant adverse impacts, in the same manner as it would use an environmental impact report or negative declaration prepared by a lead agency. The bill would require the commission or its staff, prior to completing the final staff assessment or other environmental document, to consult with all agencies that inform the commission of the need to review an environmental document to make a decision on a site or related facility.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.



*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 1250.310 of the Code of Civil Procedure*  
2     *is amended to read:*

3     1250.310. The complaint shall contain all of the following:

4     (a) The names of all plaintiffs and defendants.

5     (b) A description of the property sought to be taken. The  
6     description may, but is not required to, indicate the nature or  
7     extent of the interest of the defendant in the property.

8     (c) If the plaintiff claims an interest in the property sought to  
9     be taken, the nature and extent of ~~such~~ *that* interest.

10    (d) A statement of the right of the plaintiff to take by eminent  
11    domain the property described in the complaint. The statement  
12    shall include:

13    (1) A general statement of the public use for which the  
14    property is to be taken.

15    (2) An allegation of the necessity for the taking as required by  
16    Section 1240.030; where the plaintiff is a public entity, a  
17    reference to its resolution of necessity; where the plaintiff is a  
18    quasi-public entity within the meaning of Section 1245.320, a  
19    reference to the resolution adopted pursuant to Article 3  
20    (commencing with Section 1245.310) of Chapter 4; where the  
21    plaintiff is a nonprofit hospital, a reference to the certificate  
22    required by Section 1260 of the Health and Safety Code; where  
23    the plaintiff is a public utility and relies on a certification of the  
24    ~~State Energy Resources Conservation and Development~~  
25    ~~Commission~~ *California Energy Commission within the*  
26    ~~Department of Energy~~ *or a requirement of that commission that*  
27    development rights be acquired, a reference to ~~such~~ *that*  
28    certification or requirement.

29    (3) A reference to the statute that authorizes the plaintiff to  
30    acquire the property by eminent domain. Specification of the  
31    statutory authority may be in the alternative and may be  
32    inconsistent.

33    (e) A map or diagram portraying as far as practicable the  
34    property described in the complaint and showing its location in  
35    relation to the project for which it is to be taken.

36    *SEC. 2. Section 14074 of the Corporations Code is amended*  
37    *to read:*



1 14074. The agency shall enter into an agreement with the  
2 ~~California Energy Extension Service of the Office of Planning~~  
3 ~~and Research~~ *Department of Energy* to assist small business  
4 owners in reducing their energy costs through low interest loans  
5 and by providing assistance and information.

6 *SEC. 3. Section 17910.1 of the Education Code is amended to*  
7 *read:*

8 17910.1. As used in this part, the following terms have the  
9 following meanings:

10 (a) ~~“Commission” means the State Energy Resources~~  
11 ~~Conservation and Development Commission.~~

12 ~~(b)~~ “Superintendent” means the Superintendent of Public  
13 Instruction.

14 ~~(c)~~

15 (b) “Fund” means the Katz Schoolbus Fund created pursuant  
16 to Section 17911.

17 ~~(d)~~

18 (c) “Department” means the Department of the California  
19 Highway Patrol.

20 ~~(e)~~

21 (d) “Program” means the Katz Safe Schoolbus Clean Fuel  
22 Efficiency Demonstration Program.

23 ~~(f)~~

24 (e) “Schoolbus” means a schoolbus, as defined in Section 545  
25 of the Vehicle Code, which is Type 1 and publicly owned.

26 ~~(g)~~

27 (f) “Local educational agency” means any of the following:

28 (1) A school district.

29 (2) A county office of education.

30 (3) A regional occupational program or center.

31 (4) A joint powers agency which operates publicly owned  
32 schoolbuses.

33 *SEC. 4. Section 17911.2 of the Education Code is amended to*  
34 *read:*

35 17911.2. The ~~commission~~ *Department of Energy* shall  
36 determine the local educational agencies that are to receive  
37 replacement schoolbuses for participation in the program.

38 *SEC. 5. Section 17911.3 of the Education Code is amended to*  
39 *read:*



1 17911.3. In determining which candidate schoolbuses will be  
2 selected for replacement, the ~~commission~~ *Department of Energy*  
3 shall first, in coordination with the department and the  
4 superintendent, determine which local educational agencies meet  
5 the demonstration project criteria.

6 *SEC. 6. Section 17911.4 of the Education Code is amended to*  
7 *read:*

8 17911.4. All candidate schoolbuses selected by the  
9 ~~commission~~ *Department of Energy* for replacement shall be  
10 inspected by the department to determine all of the following  
11 criteria:

12 (a) The dates of manufacture of the schoolbuses. The  
13 schoolbuses shall have been manufactured prior to April 1, 1977,  
14 and shall have been certified during the prior school year  
15 pursuant to Section 2807 of the Vehicle Code.

16 (b) The total accumulated mileage of each candidate  
17 schoolbus, as supported by the owner's records and records of  
18 the department. Any records maintained by the superintendent  
19 may also be considered in determining the true accumulated  
20 mileage of a candidate schoolbus. Only mileage accumulated on  
21 the candidate schoolbus during usage by the applicant district  
22 may be considered by the commission as mileage under this  
23 subdivision.

24 (c) The average number of miles per day each candidate  
25 schoolbus traveled during the prior school year and to date  
26 during the current school year, as evidenced by the owner's  
27 records. Any records maintained by the department or by the  
28 superintendent may also be considered in determining the true  
29 average daily miles of a candidate schoolbus.

30 (d) The dates of each of the last three annual certifications and  
31 the odometer reading for each of those dates.

32 *SEC. 7. Section 17911.6 of the Education Code is amended to*  
33 *read:*

34 17911.6. Local educational agencies may submit a statement  
35 describing special circumstances which are applicable to a  
36 qualified candidate schoolbus, such as the unavailability of repair  
37 or replacement parts, or any necessary chassis modifications  
38 requiring the approval of the manufacturer of the chassis, as  
39 required by regulations of the department, with its application for  
40 a replacement schoolbus. The ~~commission~~ *Department of Energy*



1 may consider those special circumstances in determining the  
2 local educational agencies that are to receive replacement  
3 schoolbuses.

4 *SEC. 8. Section 17912 of the Education Code is amended to*  
5 *read:*

6 17912. The demonstration program established by this  
7 chapter shall be designed and administered by the ~~commission~~  
8 *Department of Energy*, with the advice and consultation of the  
9 department and the superintendent. The ~~commission~~ *Department*  
10 *of Energy* shall insure that fuel economy and exhaust emissions  
11 are monitored as a part of the demonstration, and shall ensure  
12 that at least 35 percent of the vehicles are powered by methanol  
13 or other low-emission, clean-burning fuels, unless the  
14 ~~commission~~ *Department of Energy* determines, within 18 months  
15 of the effective date of this act, that the use of these funds for  
16 clean burning fuel projects is infeasible. The ~~commission~~  
17 *Department of Energy* shall, within 30 days of making that  
18 determination, submit a report to the Legislature explaining its  
19 determination with respect to the feasibility or infeasibility of the  
20 project. The field demonstration shall be in accordance with State  
21 Energy Conservation Program guidelines.

22 *SEC. 9. Section 17912.2 of the Education Code is amended to*  
23 *read:*

24 17912.2. When a local educational agency accepts a  
25 replacement schoolbus, it shall also agree to participate in the  
26 demonstration program. That participation shall include  
27 maintaining records of mileage and fuel consumption, and  
28 reporting that information to the ~~commission~~ *Department of*  
29 *Energy* in a timely manner. The ~~commission~~ *Department of*  
30 *Energy* shall establish a procedure and requirement for  
31 participation in the demonstration program. All vehicles acquired  
32 under the demonstration program, at a minimum, shall meet all  
33 applicable laws and regulations, including those related to their  
34 acquisition by school districts, operation, fuel efficiency, air  
35 emissions, and safety.

36 *SEC. 10. Section 17925 of the Education Code is amended to*  
37 *read:*

38 17925. Prior to distributing any state funds pursuant to this  
39 part, the Superintendent of Public Instruction shall consult with  
40 the ~~State Energy Resources Conservation and Development~~



1 ~~Commission~~ *Department of Energy* to avoid duplication or  
2 overlap with appropriations from the Katz Schoolbus Fund,  
3 created pursuant to Section 17911.

4 *SEC. 11. Section 41304 of the Education Code is amended to*  
5 *read:*

6 41304. (a) There is appropriated annually from the Driver  
7 Training Penalty Assessment Fund to the General Fund in the  
8 State Treasury and from the General Fund to the ~~California~~  
9 ~~Energy Extension Service of the Office of Planning and Research~~  
10 *Department of Energy* a sum as necessary to establish and  
11 maintain a unit for driver instruction within the State Department  
12 of Education as set forth in Section 41904.

13 (b) In addition, subject to Section 41305, there shall be  
14 appropriated from the Driver Training Penalty Assessment Fund  
15 to the General Fund, then to the State School Fund each fiscal  
16 year, the sum the Superintendent of Public Instruction certifies as  
17 necessary to reimburse on a quarterly basis for each current fiscal  
18 year school districts, county superintendents of schools, the  
19 Department of the Youth Authority, and the State Department of  
20 Education for the actual cost of instructing pupils in the operation  
21 of motor vehicles.

22 The amount shall not exceed ninety-seven dollars (\$97) per  
23 pupil instructed in the laboratory phase of driver education in  
24 accordance with the rules and regulations of the State Board of  
25 Education.

26 (c) Subject to Section 41305, there shall also be appropriated  
27 from the Driver Training Penalty Assessment Fund the sum the  
28 Superintendent of Public Instruction shall certify as necessary to  
29 reimburse on a quarterly basis for each current fiscal year school  
30 districts, county superintendents of schools, the Department of  
31 the Youth Authority, and the State Department of Education for  
32 the actual cost of replacing vehicles and simulators used  
33 exclusively in the laboratory phase of driver education programs,  
34 but the amount shall not exceed three-fourths of that part of the  
35 actual cost of instructing pupils in the laboratory phase of driver  
36 education which is: (1) in excess of ninety-seven dollars (\$97)  
37 per pupil instructed, and (2) expended by the district, the county  
38 superintendent of schools, the Department of the Youth  
39 Authority, and the State Department of Education in replacing  
40 the vehicles and simulators. Reimbursement for vehicles shall be



1 computed for only that portion of the total mileage used  
2 exclusively in the laboratory phase of driver education programs.

3 (d) In addition, subject to Section 41305, there shall be  
4 provided from the Petroleum Violation Escrow Account to the  
5 General Fund, then to the State School Fund each fiscal year the  
6 sum the Superintendent of Public Instruction certifies as  
7 necessary to reimburse on a quarterly basis for each current fiscal  
8 year school districts, county superintendents of schools, the  
9 Department of the Youth Authority, and the State Department of  
10 Education for the costs of fitting automobile driver training  
11 vehicles with the instrumentation required under Section 51854  
12 and to reimburse on a quarterly basis for each current fiscal year  
13 school districts for the costs of transferring instrumentation  
14 providing instructional information on fuel consumption and  
15 vehicle fuel efficiency from one automobile driver training  
16 vehicle to another under Section 51854.

17 (e) In addition, subject to Section 41305, there shall be  
18 appropriated from the Petroleum Violation Escrow Account to  
19 the Driver Training Penalty Assessment Fund and from the  
20 Driver Training Penalty Assessment Fund to the General Fund,  
21 then to the Superintendent of Public Instruction each fiscal year  
22 the sum the Superintendent of Public Instruction certifies as  
23 necessary to reimburse on a quarterly basis for each current fiscal  
24 year the State Department of Education for the costs of  
25 workshops conducted by the department under Section 51854.

26 (f) For purposes of computing reimbursement, whenever a  
27 school district, a county superintendent of schools, the  
28 Department of the Youth Authority, or the State Department of  
29 Education replaces a driver training vehicle or simulator  
30 purchased by the district with a vehicle or simulator that is a gift  
31 or loan, the purchase price of the new or acquired equipment  
32 shall be deemed to be the market value of the vehicle or  
33 simulator acquired through a gift or loan.

34 A simulator is any device approved by the State Department of  
35 Education to be used in classrooms for purposes of laboratory  
36 instruction under simulated driving conditions.

37 *SEC. 12. Section 32208 of the Financial Code is repealed.*

38 ~~32208. "Energy Commission" means the California Energy~~  
39 ~~Resources Conservation and Development Commission.~~



1     *SEC. 13. Section 32321 of the Financial Code is amended to*  
2     *read:*

3     32321. (a) The official members of the board shall be:

4     (1) A member of the Governor's cabinet, or his or her  
5     designee.

6     ~~(2) One member of the Energy Commission, selected and~~  
7     ~~appointed by the members of the Energy Commission. The~~  
8     ~~Secretary of Energy or his or her designee.~~

9     (b) The public members of the board shall be:

10    (1) One member selected and appointed by the Senate Rules  
11    Committee.

12    (2) One member selected and appointed by the Speaker of the  
13    Assembly.

14    (3) Two members selected and appointed by the Governor as  
15    follows:

16    (A) One member with a minimum three years' experience as  
17    an owner, partner, officer, or employee of a California-based  
18    small business.

19    (B) One member with a minimum three years' experience as  
20    an officer or employee of a financial institution.

21    *SEC. 14. Section 32322 of the Financial Code is amended to*  
22    *read:*

23    32322. (a) The terms of official members of the board shall  
24    coincide with their official terms of office, ~~except in the case of~~  
25    ~~the member selected and appointed by the members of the~~  
26    ~~Energy Commission, who shall serve on the board until he or she~~  
27    ~~is no longer a member of the Energy Commission or until he or~~  
28    ~~she is replaced by a vote of the Energy Commission.~~

29    (b) The public members of the board shall be appointed by the  
30    Rules Committee, Speaker, and Governor in ~~such~~ a manner that  
31    they shall hold office for overlapping terms. At the time of the  
32    appointment of first directors, the first term of the directors  
33    appointed by the Rules Committee and Speaker shall be  
34    approximately two years. At the time of the appointment of first  
35    directors, the first term of the directors appointed by the  
36    Governor shall be approximately one year for one director and  
37    approximately three years for two directors. Thereafter, the terms  
38    of all public directors shall be three years. Directors shall be  
39    eligible for reappointment for an unlimited number of terms.



1 (c) A public director's tenure shall continue until his *or her*  
2 successor has been appointed and has taken his *or her* position on  
3 the board.

4 (d) In the case of public members, vacancies shall be filled by  
5 appointment of the respective appointing authority for the  
6 unexpired remainder of the term.

7 *SEC. 15. Section 32940 of the Financial Code is amended to*  
8 *read:*

9 32940. Guidelines for approving loan applications shall be  
10 developed by the board on or before May 1, 1987. In developing  
11 those guidelines, the board shall incorporate the  
12 recommendations adopted by the ~~California Energy Commission~~  
13 *Department of Energy* with respect to technical criteria which are  
14 to be applied to projects receiving loans from the corporation  
15 pursuant to this chapter. The corporation may contract with the  
16 ~~Energy Commission~~ *Department of Energy* for the purpose of  
17 developing technical guidelines.

18 *SEC. 16. Section 32942 of the Financial Code is amended to*  
19 *read:*

20 32942. Loans shall be approved according to criteria  
21 established by a credit committee, chaired by the chief financial  
22 officer of the corporation or that officer's designee. The other  
23 members of the committee shall be the member of the board  
24 appointed by the ~~Energy Commission~~ *Department of Energy* and  
25 the corporate president.

26 *SEC. 17. Section 9100 of the Fish and Game Code is*  
27 *amended to read:*

28 9100. The ~~California Energy Extension Service of the Office~~  
29 ~~of Planning and Research~~ *Department of Energy* shall implement  
30 a revolving loan fund program to assist low-income fishing fleet  
31 operators reduce their energy costs and conserve fuel by  
32 providing low-interest loans to those operators.

33 *SEC. 18. Section 9101 of the Fish and Game Code is*  
34 *amended to read:*

35 9101. Commencing January 1, 1994, and thereafter  
36 biennially, the ~~California Energy Extension Service of the Office~~  
37 ~~of Planning and Research~~ *Department of Energy* shall report to  
38 the Legislature on the status of the loan program, including the  
39 number and the amounts of loans made, the amount of loans  
40 repaid, and a comparison of the ethnic background of the loan



1 recipients with the ethnic background of the low-income fishing  
2 fleet operators.

3 *SEC. 19. Section 11550 of the Government Code is amended*  
4 *to read:*

5 11550. Effective January 1, 1988, an annual salary of  
6 ninety-one thousand fifty-four dollars (\$91,054) shall be paid to  
7 each of the following:

- 8 (a) Director of Finance.
- 9 (b) Secretary of Business, Transportation and Housing.
- 10 (c) Secretary of Resources.
- 11 (d) Secretary of Health and Human Services.
- 12 (e) Secretary of State and Consumer Services.
- 13 (f) Commissioner of the California Highway Patrol.
- 14 (g) Secretary of the Youth and Adult Correctional Agency.
- 15 (h) Secretary of Food and Agriculture.
- 16 (i) Secretary of ~~Technology, Trade, and Commerce~~ *Energy*.
- 17 (j) Secretary of Veterans Affairs.
- 18 (k) Secretary of Labor and Workforce Development.

19 The annual compensation provided by this section shall be  
20 increased in any fiscal year in which a general salary increase is  
21 provided for state employees. The amount of the increase  
22 provided by this section shall be comparable to, but shall not  
23 exceed, the percentage of the general salary increases provided  
24 for state employees during that fiscal year.

25 *SEC. 20. Section 11553 of the Government Code is amended*  
26 *to read:*

27 11553. Effective January 1, 1988, an annual salary of  
28 eighty-one thousand six hundred thirty-five dollars (\$81,635)  
29 shall be paid to each of the following:

- 30 (a) Chairperson of the Unemployment Insurance Appeals  
31 Board.
- 32 (b) Chairperson of the Agricultural Labor Relations Board.
- 33 (c) President of the Public Utilities Commission.
- 34 (d) Chairperson of the Fair Political Practices Commission.
- 35 (e) ~~Chairperson of the Energy Resources Conservation and~~  
36 ~~Development Commission.~~
- 37 (f) Chairperson of the Public Employment Relations Board.
- 38 (g)
- 39 (f) Chairperson of the Workers' Compensation Appeals Board.
- 40 (h)



(g) Administrative Director of the Division of Industrial Accidents.

(i)

(h) Chairperson of the State Water Resources Control Board.

(j)

(i) Chairperson and each member of the California Integrated Waste Management Board.

The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

*SEC. 21. Section 12802.5 of the Government Code is amended to read:*

12802.5. The Governor may, ~~with respect to the Resources Agency, appoint an Assistant Secretary for Energy Matters who may serve as Secretary for Resources designee on the Energy Resources Conservation and Development Commission and~~ appoint an Assistant Secretary for Coastal Matters who may serve as Secretary for Resources designee on the ~~State~~ California Coastal Commission.

*SEC. 22. Section 12805 of the Government Code is amended to read:*

12805. The Resources Agency consists of the State Air Resources Board, the Colorado River Board, ~~the State Energy Resources Conservation and Development Commission,~~ the State Water Resources Control Board and each California regional water quality control board, the State Lands Commission, the Division of State Lands, the San Joaquin River Conservancy, and the following departments: Conservation; Fish and Game; Forestry and Fire Protection; Boating and Waterways; Parks and Recreation; and Water Resources.

*SEC. 23. Section 14450 of the Government Code is amended to read:*

14450. The department, in preparing its research and development program, shall consult with other parts of the transportation industry, including the private and public sectors, in order to obtain maximum input designed to develop a balanced multimodal research and development program. The department



1 shall also consult with affected state agencies, including the  
2 Department of Motor Vehicles, the State Air Resources Board,  
3 ~~the State Energy Resources Conservation and Development~~  
4 ~~Commission~~ *Department of Energy*, and the Department of the  
5 California Highway Patrol.

6 *SEC. 24. Section 14684 of the Government Code is amended*  
7 *to read:*

8 14684. (a) The department, in consultation with the ~~State~~  
9 ~~Energy Resources Conservation and Development Commission~~  
10 *Department of Energy*, shall ensure that solar energy equipment  
11 is installed, no later than January 1, 2007, on all state buildings  
12 and state parking facilities, where feasible. The department shall  
13 establish a schedule designating when solar energy equipment  
14 will be installed on each building and facility, with priority given  
15 to buildings and facilities where installation is most feasible, both  
16 for state building and facility use and consumption and local  
17 publicly owned electric utility use, where feasible.

18 (b) Solar energy equipment shall be installed where feasible as  
19 part of the construction of all state buildings and state parking  
20 facilities that commences after December 31, 2002.

21 (c) For purposes of this section, it is feasible to install solar  
22 energy equipment if adequate space on a building is available,  
23 and if the solar energy equipment is cost-effective.

24 (d) No part of this section shall be construed to exempt the  
25 state from any applicable fee or requirement imposed by the  
26 Public Utilities Commission.

27 (e) The department may adopt regulations for the purposes of  
28 this section as emergency regulations in accordance with Chapter  
29 3.5 (commencing with Section 11340) of Part 1. For purposes of  
30 Chapter 3.5 (commencing with Section 11340) of Part 1,  
31 including, but not limited to, Section 11349.6, the adoption of the  
32 regulations shall be considered by the Office of Administrative  
33 Law to be necessary for the immediate preservation of the public  
34 peace, health, safety, and general welfare. Notwithstanding the  
35 120-day limit specified in subdivision (e) of Section 11346.1, the  
36 regulations shall be repealed 180 days after their effective date,  
37 unless the department complies with Chapter 3.5 (commencing  
38 with Section 11340) of Part 1 as provided in subdivision (e) of  
39 Section 11346.1.



(f) For purposes of this section, the following terms have the following meanings:

(1) “Cost-effective” means that the present value of the savings generated over the life of the solar energy system, including consideration of the value of the energy produced during peak and off-peak demand periods and the value of a reliable energy supply not subject to price volatility, shall exceed the present value cost of the solar energy equipment by not less than 10 percent. The present value cost of the solar energy equipment does not include the cost of unrelated building components. The department, in making the present value assessment, shall obtain interest rates, discount rates, and consumer price index figures from the Treasurer, and shall take into consideration air emission reduction benefits.

(2) “Local publicly owned electric utility” means a local publicly owned electric utility as defined in Section 9604 of the Public Utilities Code.

(3) “Solar energy equipment” means equipment whose primary purpose is to provide for the collection, conversion, storage, or control of solar energy for electricity generation.

*SEC. 25. Section 14684.1 of the Government Code is amended to read:*

14684.1. (a) The department, in consultation with the ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy*, shall ensure that solar energy equipment is installed, no later than January 1, 2007, on all state buildings and state parking facilities, where feasible. The department shall establish a schedule designating when solar energy equipment will be installed on each building and facility, with priority given to buildings and facilities where installation is most feasible, both for state building and facility use and consumption and local publicly owned electric utility use, where feasible.

(b) Solar energy equipment shall be installed, where feasible, as part of the construction of all state buildings and state parking facilities for which construction commences on or after January 1, 2003.

(c) For purposes of this section, it is feasible to install solar energy equipment if adequate space on or adjacent to a building is available, if the solar energy equipment is cost-effective, and if funding is available.



1 (d) Any solar energy equipment installed pursuant to this  
2 section shall meet applicable standards and requirements  
3 imposed by state and local permitting authorities, including, but  
4 not limited to, all of the following:

5 (1) Certification by the Solar Rating Certification Corporation,  
6 which is a nonprofit third party supported by the Department of  
7 Energy, or any other nationally recognized certification agency.

8 (2) All applicable safety and performance standards  
9 established by the National Electrical Code, the Institute of  
10 Electrical and Electronics Engineers, and accredited testing  
11 laboratories, such as the Underwriters Laboratories.

12 (3) Where applicable, the regulations adopted by the Public  
13 Utilities Commission regarding safety and reliability.

14 (e) This section does not exempt the state from the payment of  
15 any applicable fee or requirement imposed by the Public Utilities  
16 Commission.

17 (f) The department may adopt regulations for the purposes of  
18 this section as emergency regulations in accordance with Chapter  
19 3.5 (commencing with Section 11340) of Part 1. For purposes of  
20 that chapter, including, but not limited to, Section 11349.6, the  
21 adoption of the regulations shall be considered by the Office of  
22 Administrative Law to be necessary for the immediate  
23 preservation of the public peace, health, safety, and general  
24 welfare. Notwithstanding the 120-day limit specified in  
25 subdivision (e) of Section 11346.1, the regulations shall be  
26 repealed 180 days after their effective date, unless the department  
27 complies with Chapter 3.5 (commencing with Section 11340) of  
28 Part 1 as provided in subdivision (e) of Section 11346.1.

29 (g) Any solar energy equipment installed pursuant to this  
30 section shall be subject to the provisions of the California Solar  
31 Rights Act of 1978 (Chapter 1154 of the Statutes of 1978), as  
32 amended.

33 (h) For purposes of this section, the following terms have the  
34 following meanings:

35 (1) "Cost-effective" means that the present value of the  
36 savings generated over the life of the solar energy system,  
37 including consideration of the value of the energy produced  
38 during peak and off-peak demand periods and the value of a  
39 reliable energy supply not subject to price volatility, shall exceed  
40 the present value cost of the solar energy equipment by not less



1 than 10 percent. The present value cost of the solar energy  
2 equipment does not include the cost of unrelated building  
3 components. The department, in making the present value  
4 assessment, shall obtain interest rates, discount rates, and  
5 consumer price index figures from the Treasurer, and shall take  
6 into consideration air emission reduction benefits and the value  
7 of stable energy costs.

8 (2) "Local publicly owned electric utility" means a local  
9 publicly owned electric utility as defined in subdivision (d) of  
10 Section 9604 of the Public Utilities Code.

11 (3) "Solar energy equipment" means equipment whose  
12 primary purpose is to provide for the collection, conversion,  
13 storage, or control of solar energy for the purpose of heat  
14 production.

15 *SEC. 26. Section 15814.22 of the Government Code is*  
16 *amended to read:*

17 15814.22. The Department of General Services, in  
18 consultation with the ~~California Energy Resources Conservation~~  
19 ~~and Development Commission~~ *Department of Energy* and other  
20 state agencies and departments, shall develop a multiyear plan, to  
21 be updated biennially, with the goal of exploiting all practicable  
22 and cost-effective energy efficiency measures in state facilities.  
23 The department shall coordinate plan implementation efforts, and  
24 make recommendations to the Governor and the Legislature to  
25 achieve energy efficiency goals for state facilities.

26 *SEC. 27. Section 15814.23 of the Government Code is*  
27 *amended to read:*

28 15814.23. The Department of General Services or each state  
29 agency having jurisdiction shall ensure that all new state  
30 buildings are designed and constructed to meet at least the  
31 minimum energy efficiencies specified in standards adopted by  
32 the ~~State Energy Resources Conservation and Development~~  
33 ~~Commission~~ *Department of Energy and the California Energy*  
34 *Commission* pursuant to Section 25402 of the Public Resources  
35 Code. In the design and construction of new state buildings, the  
36 department or other responsible state agency shall also consider  
37 additional state-of-the-art energy efficiency design measures and  
38 equipment, beyond those required by the standards, that are  
39 cost-effective and feasible.



1     *SEC. 28. Section 15814.25 of the Government Code, as*  
2     *amended by Section 48 of Chapter 193 of the Statutes of 2004, is*  
3     *amended and renumbered to read:*

4     ~~15814.25.~~

5     15814.24.1. Energy conservation measures eligible for  
6     financing by kindergarten through grade 12 schools shall be  
7     limited to those measures recommended pursuant to an energy  
8     audit provided by the ~~State Energy Resources Conservation and~~  
9     ~~Development Commission~~ Department of Energy under its  
10    existing authority.

11    *SEC. 29. Section 15814.30 of the Government Code is*  
12    *amended to read:*

13    15814.30. (a) All new public buildings for which  
14    construction begins after January 1, 1993, shall be models of  
15    energy efficiency and shall be designed, constructed, and  
16    equipped with all energy efficiency measures, materials, and  
17    devices that are feasible and cost-effective over the life of the  
18    building or the life of the energy efficiency measure, whichever  
19    is less.

20    (b) In determining which energy efficiency measures,  
21    materials, and devices are feasible and cost-effective over the life  
22    of the building, the State Architect and the Department of  
23    General Services shall consult with the ~~State Energy Resources~~  
24    ~~Conservation and Development Commission~~ Department of  
25    Energy.

26    (c) For purposes of this section, “cost-effective” means that  
27    savings generated over the life of the building or the life of the  
28    energy efficiency measure, whichever is less, shall exceed the  
29    cost of purchasing and installing the energy efficiency measures,  
30    materials, or devices by not less than 10 percent.

31    *SEC. 30. Section 15814.34 of the Government Code is*  
32    *amended to read:*

33    15814.34. (a) The Legislature finds and declares all of the  
34    following:

35    (1) The state purchases a number of commodities, including,  
36    but not limited to, lighting fixtures, heating, ventilation and  
37    air-conditioning units, and copiers, that cumulatively account for  
38    a significant portion of the energy consumed by state operations.



1 (2) The state can realize significant energy savings and  
2 reduced energy costs by purchasing brands or models of  
3 commonly used commodities with low life cycle costs.

4 (3) Commodities necessary for state operations may be  
5 purchased directly by the state department or agency using the  
6 commodity, or may be purchased by the Department of General  
7 Services on behalf of other state departments or agencies.

8 (4) In order to increase energy efficiency and reduce costs to  
9 the taxpayers of the state, the state should make every reasonable  
10 effort to identify and purchase those commodities that have the  
11 lowest life cycle cost and meet the operational requirements of  
12 the state.

13 (b) The Department of General Services shall, on an ongoing  
14 basis, do all of the following:

15 (1) Identify commodities purchased by the department that,  
16 individually or on a statewide basis, consume a significant  
17 amount of energy.

18 (2) For each commodity identified pursuant to paragraph (1),  
19 determine the life cycle cost of the following:

20 (A) The brand or model of the commodity purchased by the  
21 department.

22 (B) The brand or model of the commodity that has the lowest  
23 life cycle cost, provided it is available for purchase by the state  
24 and meets all operational specifications of the state.

25 (3) Consult with the ~~Energy Resources Conservation and~~  
26 ~~Development Commission~~ *Department of Energy* in the  
27 development and revision of one or more methods of determining  
28 the life cycle costs of commodities.

29 (c) In order to assist other agencies and departments in  
30 identifying commodities with the lowest life cycle costs, the  
31 Department of General Services shall distribute the following to  
32 all state agencies and departments:

33 (1) A list of those commodities with the lowest life cycle  
34 costs, as determined pursuant to paragraph (2) of subdivision (b).

35 (2) The method or methods used by the Department of General  
36 Services to determine the life cycle costs of commodities.

37 (d) The method or methods used by the Department of General  
38 Services to calculate the life cycle costs of commodities shall be  
39 designed to be easily understood and used by purchasing agents  
40 and other personnel in making purchasing decisions.



(e) Notwithstanding any other provision of law, all state agencies and departments shall purchase those commodities identified pursuant to subdivision (b) that have the lowest life cycle costs and that meet the applicable specifications, and shall make every reasonable effort to identify and purchase other commodities with the lowest life cycle costs.

(f) “Life cycle cost” for the purposes of this section, means the total cost of purchasing, installing, maintaining, and operating a device or system during its reasonably expected life. It includes, but is not necessarily limited to, capital costs, labor costs, energy costs, and operating and maintenance costs.

*SEC. 31. Section 66645 of the Government Code is amended to read:*

66645. (a) In addition to the provisions of Sections 25302, 25500, 25507, 25508, 25514, 25516.1, 25519, 25523, and 25526 of the Public Resources Code, the provisions of this section shall apply to the commission and the ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy, including the California Energy Commission*, with respect to matters within the statutory responsibility of the ~~latter~~ *Department of Energy*.

(b) After one or more public hearings, and prior to January 1, 1979, the commission shall designate those specific locations within the Suisun Marsh, as defined in Section 29101 of the Public Resources Code, or the area of jurisdiction of the commission, where the location of a facility, as defined in Section 25110 of the Public Resources Code, would be inconsistent with this title or Division 19 (commencing with Section 29000) of the Public Resources Code. The following locations, however, shall not be so designated: (1) any property of a utility that is used for such a facility or will be used for the reasonable expansion thereof; (2) any site for which a notice of intention to file an application for certification has been filed pursuant to Section 25502 of the Public Resources Code prior to January 1, 1978, and is subsequently approved pursuant to Section 22516 of the Public Resources Code; and (3) the area east of Collinsville Road that is designated for water-related industrial use on the Suisun Marsh Protection Plan Map. Each designation made pursuant to this section shall include a description of the boundaries of those locations, the provisions of



1 this title or Division 19 (commencing with Section 29000) of the  
2 Public Resources Code with which they would be inconsistent,  
3 and detailed findings concerning the significant adverse impacts  
4 that would result from development of a facility in the designated  
5 area. The commission shall consider the conclusions, if any,  
6 reached by the ~~State Energy Resources Conservation and~~  
7 ~~Development Commission~~ *Department of Energy* in its most  
8 recently promulgated comprehensive report issued pursuant to  
9 former Section 25309 of the Public Resources Code. The  
10 commission also shall request the assistance of the ~~State Energy~~  
11 ~~Resources Conservation and Development Commission~~  
12 *Department of Energy* in carrying out the requirements of this  
13 section. The commission shall transmit a copy of its report  
14 prepared pursuant to this subdivision to the ~~State Energy~~  
15 ~~Resources Conservation and Development Commission~~  
16 *Department of Energy*.

17 (c) The commission shall revise and update the designations  
18 specified in subdivision (b) not less than once every five years.  
19 The provisions of subdivision (b) shall not apply to any sites and  
20 related facilities specified in any notice of intention to file an  
21 application for certification filed pursuant to Section 25502 of the  
22 Public Resources Code prior to designation of additional  
23 locations made by the commission pursuant to this subdivision.

24 (d) Whenever the ~~State Energy Resources Conservation and~~  
25 ~~Development Commission~~ *Department of Energy* exercises its  
26 siting authority and undertakes proceedings pursuant to the  
27 provisions of Chapter 6 (commencing with Section 25500) of  
28 Division 15 of the Public Resources Code with respect to any  
29 thermal powerplant or transmission line to be located, in whole  
30 or in part, within the Suisun Marsh or the area of jurisdiction of  
31 the commission, the commission shall participate in those  
32 proceedings and shall receive from the ~~State Energy Resources~~  
33 ~~Conservation and Development Commission~~ *Department of*  
34 *Energy* any notice of intention to file an application for  
35 certification of a site and related facilities within the Suisun  
36 Marsh or the area of jurisdiction of the commission. The  
37 commission shall analyze each notice of intention and, prior to  
38 commencement of the hearings conducted pursuant to Section  
39 25513 of the Public Resources Code, shall forward to the ~~State~~  
40 ~~Energy Resources Conservation and Development Commission~~



1 *Department of Energy* a written report on the suitability of the  
2 proposed site and related facilities specified in that notice. The  
3 commission's report shall contain a consideration of, and  
4 findings regarding, the following:

5 (1) If it is to be located within the Suisun Marsh, the  
6 consistency of the proposed site and related facilities, with the  
7 provisions of this title and Division 19 (commencing with  
8 Section 29000) of the Public Resources Code, the policies of the  
9 Suisun Marsh Protection Plan (as defined in Section 29113 of the  
10 Public Resources Code) and the certified local protection  
11 program (as defined in Section 29111 of the Public Resources  
12 Code) if any.

13 (2) If it is to be located within the area of jurisdiction of the  
14 commission, the consistency of the proposed site and related  
15 facilities with the provisions of this title and the San Francisco  
16 Bay Plan.

17 (3) The degree to which the proposed site and related facilities  
18 could reasonably be modified so as to be consistent with this  
19 title, Division 19 (commencing with Section 29000) of the Public  
20 Resources Code, the Suisun Marsh Protection Plan, or the San  
21 Francisco Bay Plan.

22 (4) ~~Such~~—Any other matters as the commission deems  
23 appropriate and necessary to carry out Division 19 (commencing  
24 with Section 29000) of the Public Resources Code.

25 *SEC. 32. Section 66646 of the Government Code is amended*  
26 *to read:*

27 66646. Notwithstanding any other provision of this title,  
28 except subdivisions (b) and (c) of Section 66645, and  
29 notwithstanding any provision of Division 19 (commencing with  
30 Section 29000) of the Public Resources Code, new or expanded  
31 thermal electric generating plants may be constructed within the  
32 Suisun Marsh, as defined in Section 29101 of the Public  
33 Resources Code, or the area of jurisdiction of the commission, if  
34 the proposed site has been determined, pursuant to the provisions  
35 of Section 25516.1 of the Public Resources Code, by the ~~State~~  
36 ~~Energy Resources Conservation and Development Commission~~  
37 *Department of Energy* to have greater relative merit than  
38 available alternative sites and related facilities for an applicant's  
39 service area which have been determined to be acceptable



1 pursuant to the provisions of Section 25516 of the Public  
2 Resources Code.

3 *SEC. 33. Section 3805.5 of the Public Resources Code is*  
4 *repealed.*

5 ~~3805.5. “Commission” means the State Energy Resources~~  
6 ~~Conservation and Development Commission.~~

7 *SEC. 34. Section 3806.5 is added to the Public Resources*  
8 *Code, to read:*

9 *3806.5. “Department” means the Department of Energy. Any*  
10 *reference in this chapter to the State Energy Resources*  
11 *Conservation and Development Commission shall be deemed to*  
12 *refer to the Department of Energy unless the context requires*  
13 *otherwise.*

14 *SEC. 35. Section 3808 of the Public Resources Code is*  
15 *amended to read:*

16 *3808. “Geothermal resources” means geothermal resources*  
17 *designated by the United States Geological Survey or the*  
18 *Department of Conservation, or by both.*

19 ~~The ~~department~~ Department of Conservation shall periodically~~  
20 ~~review, and revise as necessary, its designation of geothermal~~  
21 ~~resource areas and shall transmit any changes to the State Energy~~  
22 ~~Resources Conservation and Development Commission~~  
23 ~~department.~~

24 *SEC. 36. Section 3822.1 of the Public Resources Code is*  
25 *amended to read:*

26 *3822.1. Notwithstanding any other provision of law,*  
27 *commencing with the 1984–85 fiscal year and in each fiscal year*  
28 *thereafter, any revenues not granted pursuant to Section 3822*  
29 *remaining in the Geothermal Resources Development Account*  
30 *and any revenues expected to be received and disbursed during*  
31 *the 1984–85 fiscal year and in each fiscal year thereafter shall be*  
32 *made a part of the Governor’s Budget. Projects approved by the*  
33 ~~State Energy Resources Conservation and Development~~  
34 ~~Commission~~ *department* *under this chapter shall be submitted for*  
35 *review and comment to the Department of Finance, the*  
36 *Legislative Analyst, and the Joint Legislative Budget Committee*  
37 *when the Legislature is in session. After a 30-day period, the*  
38 ~~commission~~ *department shall execute the funding agreements.*  
39 ~~The commission~~ *department shall submit to the Legislature by*



1 April 1 of each year, a list of projects, in priority order, selected  
2 and approved during the previous year.

3 *SEC. 37. Section 3822.2 of the Public Resources Code is*  
4 *amended to read:*

5 3822.2. (a) Notwithstanding any other provision of law, the  
6 ~~State Energy Resources Conservation and Development~~  
7 ~~Commission~~ *department* may expend funds, from that portion of  
8 the Geothermal Resources Development Account used by the  
9 ~~commission~~ *department* for grants and loans, to provide direct  
10 technical assistance to local jurisdictions which are eligible for  
11 grants and loans pursuant to Section 3822.

12 (b) The total of all amounts expended pursuant to this section  
13 shall not exceed 5 percent of all funds available under Section  
14 3822 or one hundred thousand dollars (\$100,000), whichever  
15 amount is less.

16 (c) In making expenditures under this section, the ~~commission~~  
17 *department* shall consider, but not be limited to a consideration  
18 of, all of the following:

19 (1) The availability of energy resource and technology  
20 opportunities.

21 (2) The project definition and likelihood of success.

22 (3) Local needs and potential project benefits.

23 *SEC. 38. Section 4799.16 of the Public Resources Code is*  
24 *amended to read:*

25 4799.16. The department shall coordinate its activities and  
26 cooperate with the ~~State Energy Resources Conservation and~~  
27 ~~Development Commission~~ *Department of Energy* in the  
28 development of surveys, studies, and research concerning the  
29 utilization of wood waste and forest growth for energy. The  
30 department shall also coordinate its activities with other public  
31 and private agencies to insure that the activities of the department  
32 and ~~such~~ *those* other agencies are not duplicative and the  
33 maximum benefit occurs from actions taken by the department to  
34 carry out its responsibilities pursuant to this chapter.

35 *SEC. 39. Section 6815.2 of the Public Resources Code is*  
36 *amended to read:*

37 6815.2. (a) Notwithstanding Section 6815.1, the commission  
38 may take any oil, gas, or other hydrocarbons taken in kind by it,  
39 pursuant to any lease or agreement, and exchange it, by  
40 competitive bidding, for refined products which shall be



1 allocated to state agencies and to other public agencies, if the  
2 ~~State Energy Resources Conservation and Development~~  
3 ~~Commission, established pursuant to Division 15 (commencing~~  
4 ~~with Section 25000) Department of Energy~~, after a public  
5 hearing, finds, in its judgment, that ~~such~~ *the* retention and  
6 allocation is necessary to alleviate fuel shortage conditions or  
7 will effect a substantial cost saving to the state.

8 (b) The commission may make and enter into contracts or  
9 agreements for exchange of ~~such~~ oil, gas, and other hydrocarbons  
10 taken in kind for finished products required for use by state and  
11 other public agencies. ~~Such~~ *These* contracts or agreements shall  
12 be entered into by competitive bids. The commission may reject  
13 all bids, if it determines that they are not in the public interest.

14 (c) The commission shall charge the state or other public  
15 agencies allocated refined products the current market price of  
16 these products including all applicable taxes. This price shall not  
17 be less than the value of the oil, gas, or other hydrocarbons which  
18 would have been received by the state if not taken in kind. The  
19 revenue shall be subject to the terms and conditions enumerated  
20 in Section 6217. The taxes generated by these sales shall be  
21 distributed according to applicable provisions of the Revenue and  
22 Taxation Code.

23 (d) The refined products obtained from ~~such~~ *these* exchange  
24 contracts or agreements shall be allocated to state agencies and to  
25 other public agencies in accordance with the regulations which  
26 shall be adopted, after a public hearing, by the ~~State Energy~~  
27 ~~Resources Conservation and Development Commission~~  
28 *Department of Energy*.

29 (e) Notwithstanding Section 6815.1, if the commission  
30 determines that it is in the best interests of the state, it may allow  
31 another state or public agency to take in kind oil, gas, or other  
32 hydrocarbons acquired by the commission.

33 The commission shall charge the state or other public agencies  
34 allocated in kind oil, gas, or other hydrocarbons the current  
35 market price of these products, including all applicable taxes.  
36 This price shall not be less than the value of the oil, gas, or other  
37 hydrocarbons which would have been received by the state if not  
38 taken in kind. The commission may also charge for any  
39 transportation, treatment, or other costs associated with taking  
40 the in kind royalty. The revenue shall be subject to the terms and



1 conditions enumerated in Section 6217. The taxes generated by  
2 these sales shall be distributed according to applicable provisions  
3 of the Revenue and Taxation Code.

4 *SEC. 40. Section 14584 of the Public Resources Code is*  
5 *amended to read:*

6 14584. (a) Operators of reverse vending machines or  
7 processors may apply to the California Pollution Control  
8 Financing Authority for financing pursuant to Section 44526 of  
9 the Health and Safety Code, as a means of obtaining capital for  
10 establishment of a convenience network. For purposes of Section  
11 44508 of the Health and Safety Code, “project” includes the  
12 establishing of a recycling location pursuant to the division.

13 (b) Corporations, companies, or individuals may apply for  
14 loan and grant funds from the Energy Technologies Research,  
15 Development, and Demonstration Account specified in Section  
16 25683 by applying to the ~~State Energy Resources Conservation~~  
17 ~~and Development Commission~~ *Department of Energy* for the  
18 purpose of demonstrating equipment for enhancing recycling  
19 opportunities.

20 *SEC. 41. Section 21080 of the Public Resources Code is*  
21 *amended to read:*

22 21080. (a) Except as otherwise provided in this division, this  
23 division shall apply to discretionary projects proposed to be  
24 carried out or approved by public agencies, including, but not  
25 limited to, the enactment and amendment of zoning ordinances,  
26 the issuance of zoning variances, the issuance of conditional use  
27 permits, and the approval of tentative subdivision maps unless  
28 the project is exempt from this division.

29 (b) This division does not apply to any of the following  
30 activities:

31 (1) Ministerial projects proposed to be carried out or approved  
32 by public agencies.

33 (2) Emergency repairs to public service facilities necessary to  
34 maintain service.

35 (3) Projects undertaken, carried out, or approved by a public  
36 agency to maintain, repair, restore, demolish, or replace property  
37 or facilities damaged or destroyed as a result of a disaster in a  
38 disaster-stricken area in which a state of emergency has been  
39 proclaimed by the Governor pursuant to Chapter 7 (commencing



1 with Section 8550) of Division 1 of Title 2 of the Government  
2 Code.

3 (4) Specific actions necessary to prevent or mitigate an  
4 emergency.

5 (5) Projects which a public agency rejects or disapproves.

6 (6) Actions undertaken by a public agency relating to any  
7 thermal powerplant site or facility, including the expenditure,  
8 obligation, or encumbrance of funds by a public agency for  
9 planning, engineering, or design purposes, or for the conditional  
10 sale or purchase of equipment, fuel, water (except groundwater),  
11 steam, or power for a thermal powerplant, if the powerplant site  
12 and related facility will be the subject of an environmental  
13 impact report, negative declaration, or other document, prepared  
14 pursuant to a regulatory program certified pursuant to Section  
15 21080.5, which will be prepared by the ~~State Energy Resources~~  
16 ~~Conservation and Development Commission~~ *Department of*  
17 *Energy*, by the Public Utilities Commission, or by the city or  
18 county in which the powerplant and related facility would be  
19 located if the environmental impact report, negative declaration,  
20 or document includes the environmental impact, if any, of the  
21 action described in this paragraph.

22 (7) Activities or approvals necessary to the bidding for,  
23 hosting or staging of, and funding or carrying out of, an Olympic  
24 games under the authority of the International Olympic  
25 Committee, except for the construction of facilities necessary for  
26 the Olympic games.

27 (8) The establishment, modification, structuring, restructuring,  
28 or approval of rates, tolls, fares, or other charges by public  
29 agencies which the public agency finds are for the purpose of (A)  
30 meeting operating expenses, including employee wage rates and  
31 fringe benefits, (B) purchasing or leasing supplies, equipment, or  
32 materials, (C) meeting financial reserve needs and requirements,  
33 (D) obtaining funds for capital projects necessary to maintain  
34 service within existing service areas, or (E) obtaining funds  
35 necessary to maintain those intracity transfers as are authorized  
36 by city charter. The public agency shall incorporate written  
37 findings in the record of any proceeding in which an exemption  
38 under this paragraph is claimed setting forth with specificity the  
39 basis for the claim of exemption.



1 (9) All classes of projects designated pursuant to Section  
2 21084.

3 (10) A project for the institution or increase of passenger or  
4 commuter services on rail or highway rights-of-way already in  
5 use, including modernization of existing stations and parking  
6 facilities.

7 (11) A project for the institution or increase of passenger or  
8 commuter service on high-occupancy vehicle lanes already in  
9 use, including the modernization of existing stations and parking  
10 facilities.

11 (12) Facility extensions not to exceed four miles in length  
12 which are required for the transfer of passengers from or to  
13 exclusive public mass transit guideway or busway public transit  
14 services.

15 (13) A project for the development of a regional transportation  
16 improvement program, the state transportation improvement  
17 program, or a congestion management program prepared  
18 pursuant to Section 65089 of the Government Code.

19 (14) Any project or portion thereof located in another state  
20 which will be subject to environmental impact review pursuant to  
21 the National Environmental Policy Act of 1969 (42 U.S.C. Sec.  
22 4321 et seq.) or similar state laws of that state. Any emissions or  
23 discharges that would have a significant effect on the  
24 environment in this state are subject to this division.

25 (15) Projects undertaken by a local agency to implement a rule  
26 or regulation imposed by a state agency, board, or commission  
27 under a certified regulatory program pursuant to Section 21080.5.  
28 Any site-specific effect of the project which was not analyzed as  
29 a significant effect on the environment in the plan or other  
30 written documentation required by Section 21080.5 is subject to  
31 this division.

32 (c) If a lead agency determines that a proposed project, not  
33 otherwise exempt from this division, would not have a significant  
34 effect on the environment, the lead agency shall adopt a negative  
35 declaration to that effect. The negative declaration shall be  
36 prepared for the proposed project in either of the following  
37 circumstances:

38 (1) There is no substantial evidence, in light of the whole  
39 record before the lead agency, that the project may have a  
40 significant effect on the environment.



(2) An initial study identifies potentially significant effects on the environment, but (A) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (B) there is no substantial evidence, in light of the whole record before the lead agency, that the project, as revised, may have a significant effect on the environment.

(d) If there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment, an environmental impact report shall be prepared.

(e) (1) For the purposes of this section and this division, substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.

(2) Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

(f) As a result of the public review process for a mitigated negative declaration, including administrative decisions and public hearings, the lead agency may conclude that certain mitigation measures identified pursuant to paragraph (2) of subdivision (c) are infeasible or otherwise undesirable. In those circumstances, the lead agency, prior to approving the project, may delete those mitigation measures and substitute for them other mitigation measures that the lead agency finds, after holding a public hearing on the matter, are equivalent or more effective in mitigating significant effects on the environment to a less than significant level and that do not cause any potentially significant effect on the environment. If those new mitigation measures are made conditions of project approval or are otherwise made part of the project approval, the deletion of the former measures and the substitution of the new mitigation measures shall not constitute an action or circumstance requiring recirculation of the mitigated negative declaration.

(g) Nothing in this section shall preclude a project applicant or any other person from challenging, in an administrative or



judicial proceeding, the legality of a condition of project approval imposed by the lead agency. If, however, any condition of project approval set aside by either an administrative body or court was necessary to avoid or lessen the likelihood of the occurrence of a significant effect on the environment, the lead agency's approval of the negative declaration and project shall be invalid and a new environmental review process shall be conducted before the project can be reapproved, unless the lead agency substitutes a new condition that the lead agency finds, after holding a public hearing on the matter, is equivalent to, or more effective in, lessening or avoiding significant effects on the environment and that does not cause any potentially significant effect on the environment.

*SEC. 42. Section 25104 of the Public Resources Code is amended to read:*

25104. "Commission" means the ~~State Energy Resources Conservation and Development~~ California Energy Commission.

*SEC. 43. Section 25104.1 is added to the Public Resources Code, to read:*

25104.1. (a) "Department" means the Department of Energy.

(b) "Office" means the Office of Energy Market Oversight.

*SEC. 44. Section 25104.2 is added to the Public Resources Code, to read:*

25104.2. "Secretary" means the Secretary of Energy.

*SEC. 45. Section 25106 of the Public Resources Code is amended to read:*

25106. "Adviser" means the administrative adviser employed by the ~~commission~~ department pursuant to Section ~~25217~~ 25217.1.

*SEC. 46. Section 25107 of the Public Resources Code is amended to read:*

25107. "Electric transmission line" means any electric powerline carrying ~~electric power~~ electricity from a thermal powerplant located within the state to a point of junction with any interconnected transmission system. "Electric transmission line" does not include any replacement on the existing site of existing electric powerlines with electric powerlines equivalent to ~~such~~ the existing electric powerlines or the placement of new or additional conductors, insulators, or accessories related to ~~such~~



1 electric powerlines on supporting structures in existence on the  
2 effective date of this division or certified pursuant to this  
3 division. *“Electric transmission line” also includes any electric*  
4 *transmission line, plant, or system, or extension thereof, that is*  
5 *considered “electric transmission” pursuant to subdivision (b) of*  
6 *Section 1001.1 of the Public Utilities Code.*

7 *SEC. 47. Section 25110 of the Public Resources Code is*  
8 *amended to read:*

9 25110. “Facility” means any electric transmission line or  
10 thermal powerplant, or both electric transmission line and  
11 thermal powerplant, regulated according to the provisions of this  
12 division.

13 *SEC. 48. Section 25112 of the Public Resources Code is*  
14 *amended to read:*

15 25112. “Member” or “member of the commission” means a  
16 member of the ~~State Energy Resources Conservation and~~  
17 ~~Development~~ California Energy Commission appointed pursuant  
18 to Section ~~25200~~ 25203.

19 *SEC. 49. The heading of Chapter 3 (commencing with Section*  
20 *25200) of Division 15 of the Public Resources Code is amended*  
21 *to read:*

22  
23 ~~CHAPTER 3. STATE ENERGY RESOURCES CONSERVATION AND~~  
24 ~~DEVELOPMENT COMMISSION DEPARTMENT OF ENERGY~~  
25

26 *SEC. 50. Section 25200 of the Public Resources Code is*  
27 *repealed.*

28 ~~25200. There is in the Resources Agency the State Energy~~  
29 ~~Resources Conservation and Development Commission,~~  
30 ~~consisting of five members appointed by the Governor subject to~~  
31 ~~Section 25204.~~

32 *SEC. 51. Section 25200 is added to the Public Resources*  
33 *Code, to read:*

34 25200. (a) The Department of Energy is hereby created in  
35 state government to be headed by a secretary who shall be  
36 appointed by the Governor, subject to confirmation by the  
37 Senate, and who shall hold office at the pleasure of the Governor.

38 (b) The Secretary of Energy shall have the power of a head of  
39 a department pursuant to Chapter 2 (commencing with Section



1 11150) of Part 1 of Division 3 of Title 2 of the Government  
2 Code.

3 (c) The Governor may appoint an assistant secretary of energy  
4 who shall serve at the pleasure of the secretary and whose salary  
5 shall be fixed by the secretary.

6 (d) Consistent with the powers set forth in Chapter 2  
7 (commencing with Section 12850) of Part 2.5 of Division 3 of  
8 Title 2 of the Government Code, the secretary shall, with the  
9 approval of the Governor, organize the department in the manner  
10 he or she deems necessary and appropriate to effectively fulfill  
11 the responsibilities of the department. In organizing the  
12 department, the secretary shall review practices and structures in  
13 place for each program and function transferred into the  
14 department for the purpose of identifying improvements that can  
15 benefit the effectiveness and efficiency of each program and of  
16 the department. The secretary may employ legal counsel who  
17 shall, except as provided in Section 25228.4, advise the  
18 department, including the commission, in connection with legal  
19 matters and litigation before any boards, agencies, or courts of  
20 the state or federal government.

21 (e) The department shall be responsible for the planning,  
22 development, and implementation of all major aspects of the  
23 state energy policy, including electricity and natural gas energy.

24 (f) The secretary may adopt any regulations reasonably  
25 necessary to carry out the duties and powers of the department.

26 (g) On or before April 1, 2006, the secretary shall submit to  
27 the Legislature a proposal to recodify statutory provisions related  
28 to the department, and any other appropriate provisions, into an  
29 Energy Code.

30 *SEC. 52. Section 25201 of the Public Resources Code is*  
31 *repealed.*

32 ~~25201. One member of the commission shall have a~~  
33 ~~background in the field of engineering or physical science and~~  
34 ~~have knowledge of energy supply or conversion systems; one~~  
35 ~~member shall be an attorney and a member of the State Bar of~~  
36 ~~California with administrative law experience; one member shall~~  
37 ~~have background and experience in the field of environmental~~  
38 ~~protection or the study of ecosystems; one member shall be an~~  
39 ~~economist with background and experience in the field of natural~~



1 ~~resource management; and one member shall be from the public~~  
2 ~~at large.~~

3 *SEC. 53. Section 25201 is added to the Public Resources*  
4 *Code, to read:*

5 *25201. (a) The Department of Energy hereby succeeds to,*  
6 *and is vested with, all the powers, duties, responsibilities,*  
7 *obligations, liabilities, and jurisdiction of the following agencies,*  
8 *which shall no longer exist, and shall be known as predecessor*  
9 *entities:*

10 *(1) The State Energy Resources Conservation and*  
11 *Development Commission, some of whose former functions shall*  
12 *be administrated by the California Energy Commission within*  
13 *the department as provided by law.*

14 *(2) California Consumer Power and Conservation Financing*  
15 *Authority.*

16 *(3) Electricity Oversight Board.*

17 *(b) Any reference in any law or regulation to any of the*  
18 *predecessor entities listed in subdivision (a) shall be deemed to*  
19 *refer to the Department of Energy or the California Energy*  
20 *Commission, as appropriate, unless the context requires*  
21 *otherwise.*

22 *SEC. 54. Section 25202 of the Public Resources Code is*  
23 *repealed.*

24 ~~*25202. The Secretary of the Resources Agency and the*~~  
25 ~~*President of the Public Utilities Commission shall be ex officio,*~~  
26 ~~*nonvoting members of the commission, whose presence shall not*~~  
27 ~~*be counted for a quorum or for vote requirements.*~~

28 *SEC. 55. Section 25202 is added to the Public Resources*  
29 *Code, to read:*

30 *25202. In addition to the powers, duties, responsibilities, and*  
31 *jurisdiction specified in Section 25201, the Department of Energy*  
32 *hereby succeeds to, and is vested with, all the powers, duties,*  
33 *responsibilities, rights, obligations, liabilities, and jurisdiction of*  
34 *all of the following:*

35 *(a) The California Energy Extension Service of the Office of*  
36 *Planning and Research.*

37 *(b) The functions of the Department of Water Resources*  
38 *related to the purchase and sales of electric power under*  
39 *Division 27 (commencing with Section 1308) of the Water Code*  
40 *and all other related functions of the Department of Water*



1 *Resources pursuant to that division, including, but not limited to,*  
2 *the issuance and repayment of revenue bonds and related*  
3 *obligations and the establishment and revision of revenue*  
4 *requirements.*

5 *(c) All functions of the Energy Assessment Program or its*  
6 *successor entity within the Department of General Services.*

7 *(d) All functions of the Energy Services Programs or their*  
8 *successor entities in the Office of the State Architect within the*  
9 *Department of General Services.*

10 *SEC. 56. Section 25203 of the Public Resources Code is*  
11 *repealed.*

12 ~~*25203. Each member of the commission shall represent the*~~  
13 ~~*state at large and not any particular area thereof, and shall serve*~~  
14 ~~*on a full-time basis.*~~

15 *SEC. 57. Section 25203 is added to the Public Resources*  
16 *Code, to read:*

17 *25203. (a) There is, in the state government, the California*  
18 *Energy Commission, which is hereby created within the*  
19 *Department of Energy.*

20 *(b) The commission shall consist of all of the following:*

21 *(1) The Secretary of Energy.*

22 *(2) Four public members with one member meeting each of the*  
23 *following requirements:*

24 *(A) A person having a background in the field of engineering*  
25 *or physical science with knowledge in energy supply or*  
26 *conversion systems.*

27 *(B) A member of the State Bar of California with*  
28 *administrative law experience.*

29 *(C) A person having a background in environmental*  
30 *protection or the study of ecosystems.*

31 *(D) An economist with background and experience in the field*  
32 *of natural resource management.*

33 *(3) The president of the California Public Utilities*  
34 *Commission.*

35 *(4) The president of the California Independent System*  
36 *Operator.*

37 *(c) The president of the California Public Utilities*  
38 *Commission and the president of the California Independent*  
39 *System Operator shall serve as ex officio, nonvoting members of*



1 the commission, whose presence shall not be counted for a  
2 quorum or for vote requirements.

3 (d) The Governor shall appoint the public members of the  
4 commission, subject to confirmation by the Senate, for a term of  
5 four years. The public members shall serve staggered terms. Any  
6 vacancy shall be filled by the Governor within 30 days of the  
7 date on which a vacancy occurs for the unexpired portion of the  
8 term in which it occurs or for any new term of office. If the  
9 Governor fails to make an appointment for a vacancy within the  
10 30-day period, the Senate Rules Committee may make the  
11 appointment to fill the vacancy for the unexpired portion of the  
12 term in which the vacancy occurred or for any new term of office.  
13 Members of the predecessor State Energy Resources  
14 Conservation and Development Commission shall continue to  
15 serve as public members of the commission for the remainder of  
16 the terms they were appointed to serve on the predecessor  
17 commission.

18 (e) Each member of the commission shall represent the state at  
19 large and not any particular area thereof, and shall serve on a  
20 full-time basis.

21 (f) The secretary may name a designee who may act in the  
22 place of the secretary in hearing any matter before the  
23 commission, except on any matter for which the secretary  
24 determines he or she may have a conflict of interest in hearing a  
25 case. The participation of the designee shall count for quorum  
26 and voting purposes.

27 (g) The commission hereby succeeds to, and is vested with, all  
28 powers, duties, obligations, liabilities, responsibilities, and  
29 jurisdiction of the predecessor State Energy Resources  
30 Conservation and Development Commission set forth in Sections  
31 25402, 25402.1, 25402.2, 25402.4, 25402.5, 25402.7, 25402.8,  
32 25403.5, and 25911, Chapter 6 (commencing with Section  
33 25500), and Chapter 11 (commencing with Section 25950). The  
34 commission may adopt any regulations that are reasonably  
35 necessary to carry out its duties and responsibilities.

36 (h) Meetings of the commission shall be open to the public and  
37 shall be conducted in accordance with the Bagley-Keene Open  
38 Meeting Act (Article 9 (commencing with Section 11120) of  
39 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government  
40 Code).



1     *SEC. 58. Section 25204 of the Public Resources Code is*  
2     *repealed.*

3     ~~25204. The Governor shall appoint the members of the~~  
4     ~~commission within 30 days after the effective date of this~~  
5     ~~division. Every appointment made by the Governor to the~~  
6     ~~commission shall be subject to the advice and consent of a~~  
7     ~~majority of the members elected to the Senate.~~

8     *SEC. 59. Section 25204 is added to the Public Resources*  
9     *Code, to read:*

10    25204. (a) *All regulations and orders adopted by the entities*  
11    *listed in subdivision (a) of Section 25201 or functions listed in*  
12    *Section 25202, and any of their predecessors in effect on or*  
13    *before the effective date of this measure, shall remain in effect*  
14    *with respect to the programs and functions for which they were*  
15    *adopted, and shall be fully enforceable unless and until*  
16    *readopted, amended, or repealed, or until they expire by their*  
17    *own terms.*

18    (b) *Except as otherwise specified, a statute, law, rule, or*  
19    *regulation now in force, or that may hereafter be enacted or*  
20    *adopted that references the entities listed in subdivision (a) of*  
21    *Section 25201 or functions listed in Section 25202 or any of their*  
22    *predecessors shall mean the Department of Energy.*

23    (c) *An action by or against the entities listed in subdivision (a)*  
24    *of Section 25201 or Section 25202, or any of their predecessors*  
25    *shall not abate but, except as provided in Section 25227.3, shall*  
26    *continue in the name of the Department of Energy and the*  
27    *department shall be substituted for the entities and any of their*  
28    *predecessors by the court where the action is pending. The*  
29    *substitution shall not in any way affect the rights of the parties to*  
30    *the action.*

31    (d) *With respect to the members of the California Energy*  
32    *Commission other than public members appointed pursuant to*  
33    *paragraph (2) of subdivision (b) of Section 25203 or continuing*  
34    *to serve pursuant to subdivision (e) of Section 25203, the rule in*  
35    *effect regarding ex parte communications shall be applicable*  
36    *only as to communications regarding a matter pending before the*  
37    *commission.*

38    *SEC. 60. Section 25205 of the Public Resources Code is*  
39    *amended to read:*



1 25205. (a) No person shall be a *public* member of the  
2 commission *pursuant to paragraph (2) of subdivision (b) of*  
3 *Section 25203* who, during the two years prior to appointment on  
4 the commission, received any substantial portion of his *or her*  
5 income directly or indirectly from any electric *or natural gas*  
6 utility, or who engages in sale or manufacture of any major  
7 component of any facility *subject to licensing by the commission*.  
8 No *public* member of the commission shall be employed by any  
9 electric utility, applicant, or, within two years after he *or she*  
10 ceases to be a member of the commission, by any person who  
11 engages in the sale or manufacture of any major component of  
12 any facility *subject to licensing by the commission*.

13 (b) Except as provided in Section ~~25202~~ 25203, the *public*  
14 members of the commission shall not hold any other elected or  
15 appointed public office or position.

16 (c) The *secretary and public* members of the commission and  
17 all employees of the ~~commission~~ *department* shall comply with  
18 all applicable provisions of Section 19251 of the Government  
19 Code.

20 (d) No person, *including the secretary, the designee of the*  
21 *secretary, a public member of the commission, or an employee of*  
22 *the department, who is a member or employee of the commission*  
23 shall participate personally and substantially as a member ~~or~~  
24 ~~employee~~ of the commission *or as an employee of the*  
25 *department*, through decision, approval, disapproval,  
26 recommendation, the rendering of advice, investigation, or  
27 otherwise, in a judicial or other proceeding, hearing, application,  
28 request for a ruling, or other determination, contract, claim,  
29 controversy, study, plan, or other particular matter in which, to  
30 his *or her* knowledge, he *or she*, his *or her* spouse, minor child,  
31 or partner, or any organization, except a governmental agency or  
32 educational or research institution qualifying as a nonprofit  
33 organization under state or federal income tax law, in which he  
34 *or she* is serving, or has served as *an* officer, director, trustee,  
35 partner, or employee while serving as a member or employee of  
36 the commission or within two years prior to his *or her*  
37 appointment as a member of the commission, has a direct or  
38 indirect financial interest.

39 (e) No person who is a partner, employer, or employee of ~~a~~  
40 ~~member or employee~~ *the secretary, the designee of the secretary,*



1 *the department, or a public member* of the commission shall act  
2 as an attorney, agent, or employee for any person other than the  
3 state in connection with any judicial or other proceeding, hearing,  
4 application, request for a ruling, or other determination, contract,  
5 claim, controversy, study, plan, or other particular matter in  
6 which the *department, including the* commission, is a party or  
7 has a direct and substantial interest.

8 ~~(f) The provisions of this~~ This section shall not apply if the  
9 Attorney General finds that the interest of the member or  
10 employee of the commission is not so substantial as to be deemed  
11 likely to affect the integrity of the services which the state may  
12 expect from ~~such~~ the member or employee.

13 (g) Any person who violates any provision of this section is  
14 guilty of a felony and shall be subject to a fine of not more than  
15 ten thousand dollars (\$10,000) or imprisonment in the state  
16 prison, or both.

17 (h) The amendment of subdivision (d) of this section enacted  
18 by the 1975–76 Regular Session of the Legislature does not  
19 constitute a change in, but is declaratory of, the existing law.

20 SEC. 61. *Section 25205.5 is added to the Public Resources*  
21 *Code, to read:*

22 25205.5. *No contract, lease, license, bond, or any other*  
23 *agreement to which the entities listed in subdivision (a) of*  
24 *Section 25201 or functions listed in Section 25202, or any of*  
25 *their predecessors are a party shall be void or voidable by*  
26 *reason of this act, but shall continue in full force and effect, with*  
27 *the Department of Energy assuming all the rights, obligations,*  
28 *liabilities, and duties of the entities and any of their*  
29 *predecessors. The assumption by the department shall not in any*  
30 *way affect the rights of the parties to the contract, lease, license,*  
31 *bond, or agreement. Bonds issued by, and other related*  
32 *obligations incurred by, the entities or any of their predecessors,*  
33 *on or before the effective date of this section, shall become the*  
34 *obligations of the Department of Energy. Any ongoing*  
35 *obligations or responsibilities of the entities or any of their*  
36 *predecessors for managing and maintaining bond issuances and*  
37 *related obligations shall be transferred to the Department of*  
38 *Energy without impairment to any security or covenant*  
39 *contained in the bond or related instruments or agreements.*



1     *SEC. 62. Section 25206 of the Public Resources Code is*  
2     *repealed.*

3     ~~25206. The terms of office of the members of the commission~~  
4     ~~shall be for five years, except that the members first appointed to~~  
5     ~~the commission shall classify themselves by lot so that the term~~  
6     ~~of office of one member shall expire at the end of each one of the~~  
7     ~~five years following the effective date of this division. Any~~  
8     ~~vacancy shall be filled by the Governor within 30 days of the~~  
9     ~~date on which a vacancy occurs for the unexpired portion of the~~  
10    ~~term in which it occurs or for any new term of office.~~

11    ~~If the Governor fails to make an appointment for any vacancy~~  
12    ~~within such 30-day period, the Senate Rules Committee may~~  
13    ~~make the appointment to fill the vacancy for the unexpired~~  
14    ~~portion of the term in which the vacancy occurred or for any new~~  
15    ~~term of office, subject to the provisions of Section 25204.~~

16    *SEC. 63. Section 25206 is added to the Public Resources*  
17    *Code, to read:*

18    *25206. On or after the effective date of this measure, the*  
19    *unexpended balance of all funds available for use by the entities*  
20    *listed in subdivision (a) of Section 25201 or for the performance*  
21    *of functions listed in Section 25202 or any of their predecessors*  
22    *in carrying out a function transferred to the Department of*  
23    *Energy shall be available for use by the department. Unexpended*  
24    *balances shall be utilized consistent with the purposes for which*  
25    *they were appropriated. All books, documents, records, and*  
26    *property of the entities shall be transferred to the department.*

27    *SEC. 64. Section 25207 of the Public Resources Code is*  
28    *amended to read:*

29    *25207. (a) The public members of the commission shall*  
30    *receive the salary provided for by Chapter 6 (commencing with*  
31    *Section 11550) of Part 1 of Division 3 of Title 2 of the*  
32    *Government Code.*

33    ~~Each~~

34    *(b) Each* member of the commission shall receive the  
35    necessary traveling and other expenses incurred in the  
36    performance of his *or her* official duties. When necessary, the  
37    members of the commission and its employees may travel within  
38    or without the state.

39    *SEC. 65. Section 25207.5 is added to the Public Resources*  
40    *Code, to read:*



1 25207.5. (a) *An officer or employee of the entities listed in*  
2 *subdivision (a) of Section 25201 or Section 25202 who is*  
3 *performing a function transferred to the Department of Energy*  
4 *and who is serving in the state civil service, other than as a*  
5 *temporary employee, shall be transferred to the department. The*  
6 *status, position, and rights of an officer or employee of the*  
7 *entities shall not be affected by the transfer and shall be retained*  
8 *by the person as an officer or employee of the department, as the*  
9 *case may be, pursuant to the State Civil Service Act (Part 2*  
10 *(commencing with Section 18500) of Division 5 of Title 2 of the*  
11 *Government Code), except as to a position that is exempt from*  
12 *civil service.*

13 (b) *The Department of Energy shall have possession and*  
14 *control of all records, pages, offices, equipment, supplies,*  
15 *moneys, funds, appropriations, licenses, permits, agreements,*  
16 *contracts, claims, judgments, land, and other property, real or*  
17 *personal, connected with the administration of, or held for, the*  
18 *benefit or use of the entities listed in subdivision (a) of Section*  
19 *25201 or for the performance of the functions listed in Section*  
20 *25202.*

21 SEC. 66. *Section 25208 is added to the Public Resources*  
22 *Code, to read:*

23 25208. (a) *All responsibilities of the Public Utilities*  
24 *Commission that are transferred pursuant to Section 1001.1 of*  
25 *the Public Utilities Code shall be transferred in an expeditious*  
26 *and orderly manner to the California Energy Commission within*  
27 *the Department of Energy. Resources, including personnel,*  
28 *associated with responsibilities transferred to the department*  
29 *shall also be transferred to the department in an expeditious*  
30 *manner. The Secretary of Energy may allocate the*  
31 *responsibilities transferred to the department by the Public*  
32 *Utilities Commission among the divisions of the department.*

33 (b) *Except as provided in subdivision (d), applications on file*  
34 *before the Public Utilities Commission on or before the effective*  
35 *date of this measure, shall proceed to decision before the Public*  
36 *Utilities Commission and the procedural rules and substantive*  
37 *regulations of that agency shall apply until final decision on the*  
38 *application.*

39 (c) *On and after the effective date of this measure, all rules*  
40 *and orders in effect with respect to the requirements of an*



1 application for certificate under Section 1001 of the Public  
2 Utilities Code, including, but not limited to, General Order  
3 131-D of the Public Utilities Commission, shall remain in effect  
4 and shall also be considered a rule of the commission within the  
5 department. The secretary shall cause timely publication of all  
6 the rules that may be enumerated to effect a logical integration  
7 with other rules of the commission. Any subsequent modification  
8 of these rules as they apply to the jurisdiction of the commission  
9 shall be carried out in conformance with the procedures of the  
10 commission.

11 (d) The commission and the Public Utilities Commission may,  
12 by jointly adopted order, provide a mechanism for an applicant  
13 to move for the transfer of an application pending before the  
14 Public Utilities Commission for completion before the  
15 commission. The order shall preserve the status and rights of any  
16 party to an existing proceeding.

17 SEC. 67. Section 25212 of the Public Resources Code is  
18 amended to read:

19 25212. Every two years the Governor shall designate a  
20 ~~chairman~~ chair and vice-~~chairman~~ chair of the commission from  
21 among its public members.

22 SEC. 68. Section 25213 of the Public Resources Code is  
23 repealed.

24 ~~25213. The commission shall adopt rules and regulations, as~~  
25 ~~necessary, to carry out the provisions of this division in~~  
26 ~~conformity with the provisions of Chapter 3.5 (commencing with~~  
27 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the~~  
28 ~~Government Code. The commission shall make available to any~~  
29 ~~person upon request copies of proposed regulations, together~~  
30 ~~with summaries of reasons supporting their adoption.~~

31 SEC. 69. Section 25214 of the Public Resources Code is  
32 amended to read:

33 25214. The commission shall maintain its headquarters in the  
34 County of Sacramento and may establish branch offices in ~~such~~  
35 ~~those~~ parts of the state ~~as that~~ the commission deems necessary.  
36 The commission shall hold meetings at ~~such~~ the times and at  
37 ~~such~~ the places as shall be determined by it. All meetings and  
38 hearings of the commission shall be open to the public, and  
39 opportunity to be heard with respect to the subject of the hearings  
40 shall be afforded to any person. Upon request, an interested party



1 may be granted reasonable opportunity to examine any witness  
2 testifying at the hearing. ~~The first meeting of the commission~~  
3 ~~shall be held within 30 days after the confirmation of the last~~  
4 ~~member of the commission pursuant to Section 25204. The~~  
5 ~~Governor shall designate the time and place for the first meeting~~  
6 ~~of the commission.~~

7 *SEC. 70. Section 25215 of the Public Resources Code is*  
8 *amended to read:*

9 25215. Any *public* member of the commission may be  
10 removed from office by the Legislature, by concurrent resolution  
11 adopted by a majority vote of all members elected to each house,  
12 for dereliction of duty or corruption or incompetency.

13 *SEC. 71. Section 25216 of the Public Resources Code is*  
14 *amended to read:*

15 25216. In addition to other duties specified in this division,  
16 ~~the commission~~ *department* shall do all of the following:

17 (a) Undertake a continuing assessment of trends in the  
18 consumption of electrical energy and other forms of energy and  
19 analyze the social, economic, and environmental consequences of  
20 these trends; carry out directly, or cause to be carried out, energy  
21 conservation measures specified in Chapter 5 (commencing with  
22 Section 25400) of this division; and recommend to the Governor  
23 and the Legislature new and expanded energy conservation  
24 measures as required to meet the objectives of this division.

25 (b) Collect from electric utilities, gas utilities, and fuel  
26 producers and wholesalers and other sources forecasts of future  
27 supplies and consumption of all forms of energy, including  
28 electricity, and of future energy or fuel production and  
29 transporting facilities to be constructed; independently analyze  
30 such forecasts in relation to statewide estimates of population,  
31 economic, and other growth factors and in terms of the  
32 availability of energy resources, costs to consumers, and other  
33 factors; and formally specify statewide and service area electrical  
34 energy demands to be utilized as a basis for planning the siting  
35 and design of electric power generating and related facilities.

36 (c) Carry out, or cause to be carried out, under contract or  
37 other arrangements, research and development into alternative  
38 sources of energy, improvements in energy generation,  
39 transmission, and siting, fuel substitution, and other topics related



1 to energy supply, demand, public safety, ecology, and  
2 conservation which are of particular statewide importance.

3 *SEC. 72. Section 25216.5 of the Public Resources Code is*  
4 *amended to read:*

5 25216.5. (a) The commission shall ~~do all of the following:~~  
6 *prescribe the form and content of applications for facilities;*  
7 *conduct public hearings and take other actions to secure*  
8 *adequate evaluation of applications; and formally act to approve*  
9 *or disapprove applications, including specifying conditions*  
10 *under which approval and continuing operation of any facility*  
11 *shall be permitted.*

12 ~~(a) Prescribe the form and content of applications for facilities;~~  
13 ~~conduct public hearings and take other actions to secure adequate~~  
14 ~~evaluation of applications; and formally act to approve or~~  
15 ~~disapprove applications, including specifying conditions under~~  
16 ~~which approval and continuing operation of any facility shall be~~  
17 ~~permitted.~~

18 (b) ~~Prepare~~ *The department shall prepare* an integrated plan  
19 specifying actions to be taken in the event of an impending  
20 serious shortage of energy, or a clear threat to public health,  
21 safety, or welfare.

22 (c) ~~Evaluate~~ *The department shall evaluate* policies governing  
23 the establishment of rates for electric power and other sources of  
24 energy as related to energy conservation, environmental  
25 protection, and other goals and policies established in this  
26 division, and transmit recommendations for changes in  
27 power-pricing policies and rate schedules to the Governor, the  
28 Legislature, to the Public Utilities Commission, and to publicly  
29 owned electric utilities.

30 (d) ~~Serve~~ *The department shall serve* as a central repository  
31 within the state government for the collection, storage, retrieval,  
32 and dissemination of data and information on all forms of energy  
33 supply, demand, conservation, public safety, research, and  
34 related subjects. The data and information shall be derived from  
35 all sources, including, but not be limited to, electric and gas  
36 utilities, oil and other energy producing companies, institutions  
37 of higher education, private industry, public and private research  
38 laboratories, private individuals, and from any other source that  
39 ~~the commission~~ *the department* determines is necessary to carry out  
40 its objectives under this division. ~~The commission~~ *the department*



1 may charge and collect a reasonable fee for retrieving and  
2 disseminating any ~~such~~ information to cover the cost of ~~such a~~  
3 ~~that~~ service. Any funds received by the ~~commission~~ department  
4 pursuant to this subdivision shall be deposited in the account and  
5 are continuously appropriated for expenditure, by the  
6 ~~commission~~ department, for purposes of retrieving and  
7 disseminating any ~~such~~ information pursuant to this section.

8 *SEC. 73. Section 25217 of the Public Resources Code is*  
9 *repealed.*

10 ~~25217. The commission shall do all of the following:~~

11 ~~(a) Appoint an executive director with administration and~~  
12 ~~fiscal experience, who shall serve at its pleasure and whose~~  
13 ~~duties and salary shall be prescribed by the commission.~~

14 ~~(b) Employ and prescribe the duties of other staff members as~~  
15 ~~necessary to carry out the provisions of this division. Staff~~  
16 ~~members of the commission may participate in all matters before~~  
17 ~~the commission to the limits prescribed by the commission.~~

18 ~~(c) Employ legal counsel who shall advise the commission and~~  
19 ~~represent it in connection with legal matters and litigation before~~  
20 ~~any boards and agencies of the state or federal government.~~

21 *SEC. 74. Section 25217.1 of the Public Resources Code is*  
22 *amended to read:*

23 ~~25217.1. The commission secretary shall nominate and the~~  
24 ~~Governor shall appoint for a term of three years a public adviser~~  
25 ~~to the commission department who shall be an attorney admitted~~  
26 ~~to the practice of law in this state and who shall serve at the~~  
27 ~~pleasure of the secretary and shall carry out the provisions of~~  
28 ~~Section 25222 as well as other duties prescribed by this division~~  
29 ~~or by the commission secretary. The adviser may be removed~~  
30 ~~from office only upon the joint concurrence of four~~  
31 ~~commissioners and the Governor.~~

32 *SEC. 75. Section 25217.5 of the Public Resources Code is*  
33 *repealed.*

34 ~~25217.5. The chairman of the commission shall direct the~~  
35 ~~adviser, the executive director, and other staff in the performance~~  
36 ~~of their duties in conformance with the policies and guidelines~~  
37 ~~established by the commission.~~

38 *SEC. 76. Section 25218 of the Public Resources Code is*  
39 *amended to read:*



1 25218. In addition to other powers specified in this division,  
2 ~~the commission~~ department may do any of the following:

3 (a) Apply for and accept grants, contributions, and  
4 appropriations.

5 (b) Contract for professional services if ~~such~~ the work or  
6 services cannot be satisfactorily performed by its employees or  
7 by any other state agency.

8 (c) Be sued and sue.

9 (d) Request and utilize the advice and services of all federal,  
10 state, local, and regional agencies.

11 (e) Adopt any rule or regulation, or take any action, it deems  
12 reasonable and necessary to carry out the provisions of this  
13 division.

14 (f) Adopt rules and regulations, or take any action, it deems  
15 reasonable and necessary to ensure the free and open  
16 participation of any member of the staff in proceedings before  
17 ~~the commission~~ department.

18 *SEC. 77. Section 25218.5 of the Public Resources Code is*  
19 *amended to read:*

20 25218.5. The provisions specifying any power or duty of the  
21 department, including the commission within the department or  
22 any other subdivision of the department, shall be liberally  
23 construed, in order to carry out the objectives of this division and  
24 other applicable provisions of law.

25 *SEC. 78. Section 25219 of the Public Resources Code is*  
26 *amended to read:*

27 25219. ~~As~~ Except as provided in subdivision (f) of Section  
28 25227.1, Section 25227.3, subdivision (l) of Section 25227.8, and  
29 Section 25228.4, and in Sections 341 and 341.4 of the Public  
30 Utilities Code, as to any matter involving the federal  
31 government, its departments or agencies, which is within the  
32 scope of the power and duties of the ~~commission~~ department, the  
33 ~~commission~~ department may represent its interest or the interest  
34 of any county, city, state agency, or public district upon its  
35 request, and to that end may correspond, confer, and cooperate  
36 with the federal government, its departments or agencies.

37 *SEC. 79. Section 25220 of the Public Resources Code is*  
38 *amended to read:*

39 25220. The ~~commission~~ department may participate as a  
40 party, to the extent that it shall determine, in any proceeding



1 before any federal or state agency having authority whatsoever to  
2 approve or disapprove any aspect of a proposed facility, receive  
3 notice from any applicant of all applications and pleadings filed  
4 subsequently by such applicants in any of ~~such~~ *those*  
5 proceedings, and, by its request, receive copies of any of ~~such~~  
6 *any* subsequently filed applications and pleadings that it shall  
7 deem necessary.

8 *SEC. 80. Section 25221 of the Public Resources Code is*  
9 *amended to read:*

10 25221. ~~Upon~~ *Except as provided in Section 25228.4, upon*  
11 *request of the* ~~commission~~ *department*, the Attorney General  
12 shall represent the ~~commission~~ *department* and the state in  
13 litigation concerning affairs of the ~~commission~~ *department*,  
14 unless the Attorney General represents another state agency, in  
15 which case the ~~commission~~ *department* shall be authorized to  
16 employ other counsel.

17 *SEC. 81. Section 25222 of the Public Resources Code is*  
18 *amended to read:*

19 25222. The adviser shall insure that full and adequate  
20 participation by all interested groups and the public at large is  
21 secured in the planning, site and facility certification, energy  
22 conservation, and emergency allocation procedures provided in  
23 this division. The adviser shall insure that timely and complete  
24 notice of *department and* commission meetings and public  
25 hearings is disseminated to all interested groups and to the public  
26 at large. The adviser shall also advise ~~such~~ *these interested*  
27 groups and the public as to effective ways of participating in the  
28 *department's and the* commission's proceedings. The adviser  
29 shall recommend to the *department and the* commission  
30 additional measures to assure open consideration and public  
31 participation in energy planning, site and facility certification,  
32 energy conservation, and emergency allocation proceedings.

33 *SEC. 82. Section 25223 of the Public Resources Code is*  
34 *amended to read:*

35 25223. ~~The~~ *(a) Except as provided in subdivision (b), the*  
36 *department and* commission shall make available any  
37 information filed or submitted pursuant to this division under the  
38 provisions of the California Public Records Act, Chapter 3.5  
39 (commencing with Section 6250) of Division 7, Title 1 of the  
40 Government Code; ~~provided, however, that the commission.~~



1     (b) *The department and the commission* shall keep confidential  
2 any information submitted to the Division of Oil and Gas of the  
3 Department of Conservation that the division determines,  
4 pursuant to Section 3752, to be proprietary.

5     *SEC. 83. Section 25224 of the Public Resources Code is*  
6 *amended to read:*

7     25224. The ~~commission~~ *department* and other state agencies  
8 shall, to the fullest extent possible, exchange records, reports,  
9 material, and other information relating to energy resources and  
10 conservation and power facilities siting, or any areas of mutual  
11 concern, to the end that unnecessary duplication of effort may be  
12 avoided.

13     *SEC. 84. Section 25225 of the Public Resources Code is*  
14 *amended to read:*

15     25225. (a) Prior to expending any funds for any research,  
16 development, or demonstration program or project relating to  
17 vehicles or vehicle fuels, the ~~commission~~ *department* shall do  
18 both of the following, using existing resources:

19         (1) Adopt a plan describing any proposed expenditure that sets  
20 forth the expected costs and qualitative as well as quantitative  
21 benefits of the proposed program or project.

22         (2) Find that the proposed program or project will not  
23 duplicate any other past or present publicly funded California  
24 program or project. This paragraph is not intended to prevent  
25 funding for programs or projects jointly funded with another  
26 public agency where there is no duplication.

27     (b) Within 120 days from the date of the conclusion of a  
28 program or project subject to subdivision (a) that is funded by the  
29 ~~commission~~ *department*, the ~~commission~~ *department* shall issue  
30 a public report that sets forth the actual costs of the program or  
31 project, the results achieved and how they compare with  
32 expected costs and benefits determined pursuant to paragraph (1)  
33 of subdivision (a), and any problems that were encountered by  
34 the program or project.

35     (c) (1) This section does not apply to any funds appropriated  
36 for research, development, or demonstration pursuant to a statute  
37 that expressly specifies both of the following:

38         (A) A vehicle technology or vehicle fuel which is the subject  
39 of the research, development, or demonstration.



(B) The purpose of, or anticipated products of, the research, development, or demonstration.

(2) This section does not apply to the Katz Safe Schoolbus Clean Fuel Efficiency Demonstration Program (Part 10.7 (commencing with Section 17910) of Division 1 of Title 1 of the Education Code).

*SEC. 85. Section 25226 of the Public Resources Code is amended to read:*

25226. (a) The Energy Technologies Research, Development, and Demonstration Account established under former Section 25683 is hereby continued in existence, in the General Fund, to be administered by the ~~commission~~ *department* for the purpose of carrying out Chapter 7.3 (commencing with Section 25630) and Chapter 7.5 (commencing with Section 25650).

(b) The Controller shall deposit in the account all money appropriated to the account by the Legislature, plus accumulated interest on that money, and money from loan repayments, interest, and royalties pursuant to Sections 25630 and 25650, for use by the ~~commission~~ *department*, upon appropriation by the Legislature, for the purposes specified in Chapter 7.3 (commencing with Section 25630) and Chapter 7.5 (commencing with Section 25650).

*SEC. 86. Chapter 3.5 (commencing with Section 25227) is added to Division 15 of the Public Resources Code, to read:*

#### *CHAPTER 3.5. OFFICE OF ENERGY MARKET OVERSIGHT*

*25227. The Legislature finds and declares that the welfare of California's citizens and economy is significantly dependent upon the stable and competitive functioning of wholesale markets for bulk electricity, natural gas, and transportation fuels, as well as on the reliable and efficient operation of the electric transmission system. Reliable and reasonably priced electric service is of paramount importance to the safety, health, and comfort of the people of California. Transmission connections between electric utilities allow them to share generation resources and can improve system reliability. The connections between electric utilities also create potential exposure to events that can cause widespread and extended transmission and*



1 service outages that reach far beyond the originating utility  
2 service area. The economic cost to California's residential,  
3 commercial, agricultural, and industrial customers of extended  
4 electric service outages, or of the failure of wholesale energy  
5 markets to produce competitive outcomes is very significant.  
6 There is a significant public interest in monitoring the  
7 performance of wholesale energy markets and of the electric  
8 transmission grid.

9 25227.1. In order to ensure that the interests of the people of  
10 California are served, there is hereby created within the  
11 department, the Office of Energy Market Oversight, to report to  
12 and act under the direction of the secretary. The office shall  
13 perform all of the following functions:

14 (a) Oversee the Independent System Operator.

15 (b) Investigate any matter related to wholesale markets for  
16 electricity, natural gas, other energy fuels, or concerning the  
17 transmission of these products, to ensure that the interests of  
18 California's citizens and consumers are served, protected, and  
19 represented.

20 (c) Appear in all relevant proceedings before the Federal  
21 Energy Regulatory Commission on behalf of California energy  
22 consumers and as the representative of the state's energy policy.

23 (d) Hear and decide appeals of majority decisions of the  
24 Independent System Operator governing board, as they relate to  
25 matters subject to exclusive state jurisdiction, as specified in  
26 Section 25227.3, under procedures established by rule.

27 (e) Exercise any power or authority of the former Electricity  
28 Oversight Board with respect to the Power Exchange that the  
29 office determines is necessary to protect a continuing public  
30 interest relating to that entity.

31 (f) Advise the secretary and the department on matters  
32 concerning wholesale energy markets.

33 25227.3. (a) Any reference in the law to the "Electricity  
34 Oversight Board" shall mean the Office of Energy Market  
35 Oversight in the Department of Energy, as successor to that  
36 board.

37 (b) The Office of Energy Market Oversight may exercise any  
38 right that exists in the name of the former Electricity Oversight  
39 Board and may pursue and continue to final resolution any claim  
40 or right that exists in the name of the Electricity Oversight



1 *Board. It may take an action in its own name, or may maintain it*  
2 *in the name of the former Electricity Oversight Board, as it*  
3 *determines will best preserve and protect the interests of the*  
4 *public in those rights or claims.*

5 *(c) An action initiated, joined, or pursued by the Office of*  
6 *Energy Market Oversight shall not be considered an action by*  
7 *any other office, division, or commission within the Department*  
8 *of Energy unless specifically stated in a pleading. The office shall*  
9 *maintain separation and procedures, as are necessary, to prevent*  
10 *any inappropriate sharing of personnel or flow of proprietary*  
11 *information between its market monitoring and investigation*  
12 *functions and any program or function within the department*  
13 *that has a market interest.*

14 *(d) Any pending litigation for which there could be a conflict if*  
15 *combined with another program reorganized under the*  
16 *Department of Energy, including, but not limited to, Federal*  
17 *Energy Regulatory Commission dockets EL02-60 and EL02-62,*  
18 *and any related appeals or remands, shall be continued by the*  
19 *Office of Energy Market Oversight in the name of the Electricity*  
20 *Oversight Board and maintained separate from all other*  
21 *programs of the department. The office shall report on the*  
22 *resolution of any case directly to the legal affairs office of the*  
23 *Governor.*

24 *(e) Other agencies that are parties to, or commenting agencies*  
25 *in, matters before the Federal Energy Regulatory Commission*  
26 *shall cooperate with the office to promote coordination of the*  
27 *state's advocacy with respect to those matters.*

28 *25227.5. (a) The Office of Energy Market Oversight shall*  
29 *hear and decide appeals of majority decisions of the Independent*  
30 *System Operator governing board relating to matters that are*  
31 *identified in subdivision (b) as they pertain to the Independent*  
32 *System Operator.*

33 *(b) The following matters are subject to California's exclusive*  
34 *jurisdiction:*

35 *(1) Selections by California of governing board members, as*  
36 *described in Sections 25227.1 and 25227.3, and Section 345.1 of*  
37 *the Public Utilities Code.*

38 *(2) Matters pertaining to retail electric service or retail sales*  
39 *of electric energy.*



1     (3) Ensuring that the purposes and functions of the  
2     Independent System Operator are consistent with the purposes  
3     and functions of California nonprofit public benefit corporations,  
4     including duties of care and conflict of interest standards for  
5     directors of the corporations.

6     (4) State functions assigned to the Independent System  
7     Operator under state law.

8     (5) Open meeting standards and meeting notice requirements.

9     (6) Public access to corporate records.

10    (7) The amendment of bylaws relevant to these matters.

11    (c) Only members of the Independent System Operator  
12    governing board may appeal a majority decision of the  
13    Independent System Operator related to any of the matters  
14    specified in subdivision (b) to the Office of Energy Market  
15    Oversight.

16    25227.7. The Office of Energy Market Oversight may do all  
17    of the following:

18    (a) Accept appropriations, grants, or contributions from any  
19    public source, private foundation, or individual.

20    (b) Sue and be sued.

21    (c) Contract with state, local, or federal agencies for services  
22    or work required by the office.

23    (d) Contract for or employ any services or work, including  
24    expert witness and attorney services required by the office that in  
25    its opinion cannot satisfactorily be performed by its staff, by  
26    other subdivisions of the department, or by other state agencies.

27    (e) Appoint advisory committees from members of other public  
28    agencies and private groups or individuals.

29    (f) Hold hearings at the times and places it may deem proper.

30    (g) Issue subpoenas to compel the production of books,  
31    records, papers, accounts, reports, and documents and the  
32    attendance of witnesses.

33    (h) Administer oaths.

34    (i) Adopt or amend rules and regulations to carry out the  
35    purposes and provisions of this chapter, and to govern the  
36    procedures of the office.

37    (j) Exercise any authority consistent with this chapter  
38    delegated to it by a federal agency or authorized to it by federal  
39    law.



1     (k) Under the direction of the secretary, make  
2     recommendations to the Governor and the Legislature.

3     (l) Participate in proceedings relevant to the purposes of this  
4     chapter or to the purposes of Division 4.9 (commencing with  
5     Section 9600) of the Public Utilities Code or, consistent with the  
6     policies of the department, participate in activities to promote the  
7     formation of interstate agreements to enhance the reliability and  
8     function of the electricity system and the electricity market.

9     (m) Do any and all other things necessary to carry out the  
10    purposes of this chapter.

11    25228. The Office of Energy Market Oversight may adopt  
12    rules or protective orders to protect the confidential status of  
13    market sensitive information.

14    25228.2. (a) The Office of Energy Market Oversight in the  
15    department succeeds to and is vested with all duties,  
16    responsibilities, powers, jurisdiction, liabilities, and functions of  
17    the Electricity Oversight Board, which is hereby abolished. Any  
18    reference in any law to the duties, responsibilities, powers, and  
19    functions of the Electricity Oversight Board, which no longer  
20    exists, shall be considered a reference to the Office of Energy  
21    Market Oversight unless the context otherwise requires.

22    (b) All officers and employees of the Electricity Oversight  
23    Board who, on the effective date of this section, are serving in the  
24    state civil service, other than as temporary employees, shall be  
25    transferred to the Department of Energy pursuant to Section  
26    19050.9 of the Government Code. The status, position, and rights  
27    of any officer or employee of the board shall not be affected by  
28    the transfer and shall be retained by the person as an officer or  
29    employee of the department, as the case may be, pursuant to the  
30    State Civil Service Act (Part 2 (commencing with Section 18500)  
31    of Division 5 of Title 2 of the Government Code), except as to a  
32    position that is exempt from civil service.

33    25228.4. The Secretary of Energy may appoint, and fix the  
34    salary of, a deputy who shall have charge of administering the  
35    Office of the Energy Market Oversight, including entering into  
36    contracts, subject to policies of the department. Notwithstanding  
37    Sections 11042 and 11043 of the Government Code, the  
38    secretary shall appoint an attorney who shall advise and  
39    represent the office and the People of the State of California as a  
40    party in any state or federal action, proceeding, or litigation



1 *related to the purposes of this chapter or to an action of the*  
2 *office and who shall perform generally all the duties of attorney*  
3 *with respect to the office.*

4 *SEC. 87. Section 25301 of the Public Resources Code is*  
5 *amended to read:*

6 25301. (a) At least every two years, the ~~commission~~  
7 *department* shall conduct assessments and forecasts of all aspects  
8 of energy industry supply, production, transportation, delivery  
9 and distribution, demand, and prices. The ~~commission~~  
10 *department* shall use these assessments and forecasts to develop  
11 energy policies that conserve resources, protect the environment,  
12 ensure energy reliability, enhance the state's economy, and  
13 protect public health and safety. To perform these assessments  
14 and forecasts, the ~~commission~~ *department* may require  
15 submission of demand forecasts, resource plans, market  
16 assessments, and related outlooks from electric and natural gas  
17 utilities, transportation fuel and technology suppliers, and other  
18 market participants. These assessments and forecasts shall be  
19 done in consultation with the appropriate state and federal  
20 agencies including, but not limited to, the Public Utilities  
21 Commission, the Office of Ratepayer Advocates, the Air  
22 Resources Board, ~~the Electricity Oversight Board~~, the  
23 Independent System Operator, the Department of Water  
24 Resources, ~~the California Consumer Power and Conservation~~  
25 ~~Financing Authority~~, the Department of Transportation, and the  
26 Department of Motor Vehicles.

27 (b) In developing the assessments and forecasts prepared  
28 pursuant to subdivision (a), the ~~commission~~ *department* shall do  
29 all of the following:

30 (1) Provide information about the performance of energy  
31 industries.

32 (2) Develop and maintain the analytical capability sufficient to  
33 answer inquiries about energy issues from government, market  
34 participants, and the public.

35 (3) Analyze and develop energy policies.

36 (4) Provide an analytical foundation for regulatory and policy  
37 decisionmaking.

38 (5) Facilitate efficient and reliable energy markets.

39 *SEC. 88. Section 25302 of the Public Resources Code is*  
40 *amended to read:*



1 25302. (a) Beginning November 1, 2003, and every two  
2 years thereafter, the ~~commission~~ *department* shall adopt an  
3 integrated energy policy report. This integrated report shall  
4 contain an overview of major energy trends and issues facing the  
5 state, including, but not limited to, supply, demand, pricing,  
6 reliability, efficiency, and impacts on public health and safety,  
7 the economy, resources, and the environment. Energy markets  
8 and systems shall be grouped and assessed in three subsidiary  
9 volumes:

10 (1) Electricity and natural gas markets.

11 (2) Transportation fuels, technologies, and infrastructure.

12 (3) Public interest energy strategies.

13 (b) The ~~commission~~ *department* shall compile the integrated  
14 energy policy report prepared pursuant to subdivision (a) by  
15 consolidating the analyses and findings of the subsidiary volumes  
16 in paragraphs (1), (2), and (3) of subdivision (a). The integrated  
17 energy policy report shall present policy recommendations based  
18 on an indepth and integrated analysis of the most current and  
19 pressing energy issues facing the state. The analyses supporting  
20 this integrated energy policy report shall explicitly address  
21 interfuel and intermarket effects to provide a more informed  
22 evaluation of potential tradeoffs when developing energy policy  
23 across different markets and systems.

24 (c) The integrated energy policy report shall include an  
25 assessment and forecast of system reliability and the need for  
26 resource additions, efficiency, and conservation that considers all  
27 aspects of energy industries and markets that are essential for the  
28 state economy, general welfare, public health and safety, energy  
29 diversity, and protection of the environment. This assessment  
30 shall be based on determinations made pursuant to this chapter.

31 (d) Beginning November 1, 2004, and every two years  
32 thereafter, the ~~commission~~ *department* shall prepare an energy  
33 policy review to update analyses from the integrated energy  
34 policy report prepared pursuant to subdivisions (a), (b), and (c),  
35 or to raise energy issues that have emerged since the release of  
36 the integrated energy policy report. The ~~commission~~ *department*  
37 may also periodically prepare and release technical analyses and  
38 assessments of energy issues and concerns to provide timely and  
39 relevant information for the Governor, the Legislature, market  
40 participants, and the public.



(e) In preparation of the report, the ~~commission~~ *department* shall consult with the following entities: the Public Utilities Commission, the Office of Ratepayer Advocates, the State Air Resources Board, the ~~Electricity Oversight Board~~ *Resources Agency*, the Independent System Operator, the Department of Water Resources, the ~~California Consumer Power and Conservation Financing Authority~~ *Environmental Protection Agency*, the Department of Transportation, and the Department of Motor Vehicles, and any federal, state, and local agencies it deems necessary in preparation of the integrated energy policy report. To assure collaborative development of state energy policies, these agencies shall make a good faith effort to provide data, assessment, and proposed recommendations for review by the ~~commission~~ *department*.

(f) The ~~commission~~ *department* shall provide the report to the Public Utilities Commission, the Office of Ratepayer Advocates, the State Air Resources Board, the ~~Electricity Oversight Board~~, the Independent System Operator, the Department of Water Resources, the ~~California Consumer Power and Conservation Financing Authority~~ *Resources Agency*, the *California Environmental Protection Agency*, and the Department of Transportation. For the purpose of ensuring consistency in the underlying information that forms the foundation of energy policies and decisions affecting the state, those entities shall carry out their energy-related duties and responsibilities based upon the information and analyses contained in the report. If an entity listed in this subdivision objects to information contained in the report, and has a reasonable basis for that objection, the entity shall not be required to consider that information in carrying out its energy-related duties.

(g) The ~~commission~~ *department* shall make the report accessible to state, local, and federal entities and to the general public.

SEC. 89. Section 25303 of the Public Resources Code is amended to read:

25303. (a) The ~~commission~~ *department* shall conduct electricity and natural gas forecasting and assessment activities to meet the requirements of paragraph (1) of subdivision (a) of Section 25302, including, but not limited to, all of the following:



1 (1) Assessment of trends in electricity and natural gas supply  
2 and demand, and the outlook for wholesale and retail prices for  
3 commodity electricity and natural gas under current market  
4 structures and expected market conditions.

5 (2) Forecasts of statewide and regional electricity and natural  
6 gas demand including annual, seasonal, and peak demand, and  
7 the factors leading to projected demand growth including, but not  
8 limited to, projected population growth, urban development,  
9 industrial expansion and energy intensity of industries, energy  
10 demand for different building types, energy efficiency, and other  
11 factors influencing demand for electricity. With respect to  
12 long-range forecasts of the demand for natural gas, the report  
13 shall include an evaluation of average conditions, as well as best  
14 and worst case scenarios, and an evaluation of the impact of the  
15 increasing use of renewable resources on natural gas demand.

16 (3) Evaluation of the adequacy of electricity and natural gas  
17 supplies to meet forecasted demand growth. Assessment of the  
18 availability, reliability, and efficiency of the electricity and  
19 natural gas infrastructure and systems including, but not limited  
20 to, natural gas production capability both in and out of state,  
21 natural gas interstate and intrastate pipeline capacity, storage and  
22 use, and western regional and California electricity and  
23 transmission system capacity and use.

24 (4) Evaluation of potential impacts of electricity and natural  
25 gas supply, demand, and infrastructure and resource additions on  
26 the electricity and natural gas systems, public health and safety,  
27 the economy, resources, and the environment.

28 (5) Evaluation of the potential impacts of electricity and  
29 natural gas load management efforts, including end user response  
30 to market price signals, as a means to ensure reliable operation of  
31 electricity and natural gas systems.

32 (6) Evaluation of whether electricity and natural gas markets  
33 are adequately meeting public interest objectives including the  
34 provision of all of the following: economic benefits; competitive,  
35 low-cost reliable services; customer information and protection;  
36 and environmentally sensitive electricity and natural gas  
37 supplies. This evaluation may consider the extent to which  
38 California is an element within western energy markets, the  
39 existence of appropriate incentives for market participants to  
40 provide supplies and for consumers to respond to energy prices,



1 appropriate identification of responsibilities of various market  
2 participants, and an assessment of long-term versus short-term  
3 market performance. To the extent this evaluation identifies  
4 market shortcomings, the ~~commission~~ department shall propose  
5 market structure changes to improve performance.

6 (7) Identification of impending or potential problems or  
7 uncertainties in the electricity and natural gas markets, potential  
8 options and solutions, and recommendations.

9 (b) Commencing November 1, 2003, and every two years  
10 thereafter, to be included in the integrated energy policy report  
11 prepared pursuant to Section 25302, the ~~commission~~ department  
12 shall assess the current status of the following:

13 (1) The environmental performance of the electric generation  
14 facilities of the state, to include all of the following:

15 (A) Generation facility efficiency.

16 (B) Air emission control technologies in use in operating  
17 plants.

18 (C) The extent to which recent resource additions have, and  
19 expected resource additions are likely to, displace or reduce the  
20 operation of existing facilities, including the environmental  
21 consequences of these changes.

22 (2) The geographic distribution of statewide environmental,  
23 efficiency, and socioeconomic benefits and drawbacks of  
24 existing generation facilities, including, but not limited to, the  
25 impacts on natural resources including wildlife habitat, air  
26 quality, and water resources, and the relationship to demographic  
27 factors. The assessment shall describe the socioeconomic and  
28 demographic factors that existed when the facilities were  
29 constructed and the current status of these factors. In addition,  
30 the report shall include how expected or recent resource additions  
31 could change the assessment through displaced or reduced  
32 operation of existing facilities.

33 *SEC. 90. Section 25304 of the Public Resources Code is*  
34 *amended to read:*

35 25304. The ~~commission~~ department shall conduct  
36 transportation forecasting and assessment activities to meet the  
37 requirements of paragraph (2) of subdivision (a) of Section  
38 25302 including, but not limited to:

39 (a) Assessment of trends in transportation fuels, technologies,  
40 and infrastructure supply and demand and the outlook for



1 wholesale and retail prices for petroleum, petroleum products,  
2 and alternative transportation fuels under current market  
3 structures and expected market conditions.

4 (b) Forecasts of statewide and regional transportation energy  
5 demand, both annual and seasonal, and the factors leading to  
6 projected demand growth including, but not limited to, projected  
7 population growth, urban development, vehicle miles traveled,  
8 the type, class, and efficiency of personal vehicles and  
9 commercial fleets, and shifts in transportation modes.

10 (c) Evaluation of the sufficiency of transportation fuel  
11 supplies, technologies, and infrastructure to meet projected  
12 transportation demand growth. Assessment of crude oil and other  
13 transportation fuel feedstock supplies; in-state, national, and  
14 worldwide production and refining capacity; product output  
15 storage availability; and transportation and distribution systems  
16 capacity and use.

17 (d) Assessments of the risks of supply disruptions, price  
18 shocks, or other events and the consequences of these events on  
19 the availability and price of transportation fuels and effects on  
20 the state's economy.

21 (e) Evaluation of the potential for needed changes in the  
22 state's energy shortage contingency plans to increase production  
23 and productivity, improve efficiency of fuel use, increase  
24 conservation of resources, and other actions to maintain  
25 sufficient, secure, and affordable transportation fuel supplies for  
26 the state.

27 (f) Evaluation of alternative transportation energy scenarios, in  
28 the context of least environmental and economic costs, to  
29 examine potential effects of alternative fuels usage, vehicle  
30 efficiency improvements, and shifts in transportation modes on  
31 public health and safety, the economy, resources, the  
32 environment, and energy security.

33 (g) Examination of the success of introduction, prices, and  
34 availability of advanced transportation technologies, low- or  
35 zero-emission vehicles, and clean-burning transportation fuels,  
36 including their potential future contributions to air quality,  
37 energy security, and other public interest benefits.

38 (h) Recommendations to improve the efficiency of  
39 transportation energy use, reduce dependence on petroleum fuels,  
40 decrease environmental impacts from transportation energy use,



1 and contribute to reducing congestion, promoting economic  
2 development, and enhancing energy diversity and security.

3 *SEC. 91. Section 25305 of the Public Resources Code is*  
4 *amended to read:*

5 25305. The ~~commission~~ *department* shall rely upon  
6 forecasting and assessments performed in accordance with  
7 Sections 25301 to 25304, inclusive, as the basis for analyzing the  
8 success of and developing policy recommendations for public  
9 interest energy strategies. Public interest energy strategies  
10 include, but are not limited to, achieving energy efficiency and  
11 energy conservation; implementing load management; pursuing  
12 research, development, demonstration, and commercialization of  
13 new technologies; promoting renewable generation technologies;  
14 reducing statewide greenhouse gas emissions and addressing the  
15 impacts of climate change on California; stimulating California's  
16 energy-related business activities to contribute to the state's  
17 economy; and protecting and enhancing the environment.  
18 Additional assessments to address public interest energy  
19 strategies shall include, but are not limited to, all of the  
20 following:

21 (a) Identification of emerging trends in energy efficiency in  
22 the residential, commercial, industrial, agricultural, and  
23 transportation sectors of the state's economy, including, but not  
24 limited to, evaluation of additional achievable energy efficiency  
25 measures and technologies. Identification of policies that would  
26 permit fuller realization of the potential for energy efficiency,  
27 either through direct programmatic actions or facilitation of the  
28 market.

29 (b) Identification of emerging trends in the renewable energy  
30 industry. In addition, the ~~commission~~ *department* shall evaluate  
31 progress in ensuring the operation of existing facilities, and the  
32 development of new and emerging, in-state renewable resources.

33 (c) Identification of emerging trends in energy research,  
34 development, and demonstration activities that advance science  
35 or technology to produce public benefits.

36 (d) Identification of progress in reducing statewide greenhouse  
37 gas emissions and addressing the effects of climate change on  
38 California.

39 *SEC. 92. Section 25305.5 of the Public Resources Code is*  
40 *amended to read:*



25305.5. The ~~commission~~ department shall include in its report prepared pursuant to Sections 25301 to 25304, inclusive, a description of international energy market prospects and an evaluation of its export promotion activities, as well as an assessment of the state of the California energy technology and energy conservation industry's efforts to enter foreign markets. The report shall also include recommendations for state government initiatives to foster the California energy technology and energy conservation industry's competition in world markets.

SEC. 93. Section 25306 of the Public Resources Code is amended to read:

25306. The ~~commission~~ department shall conduct workshops, hearings, and other forums to gain the perspectives of the public and market participants for purposes of the integrated energy policy report prepared pursuant to Section 25302 and the forecasting and assessments prepared pursuant to Sections 25301, 25303, 25304, and 25305. The ~~commission~~ department shall include the comments, as well as responses to those comments, of governmental agencies, industry representatives, market participants, private groups, and any other person concerning the commission's proposals and recommendations in the docket for the integrated energy policy report.

SEC. 94. Section 25320 of the Public Resources Code is amended to read:

25320. (a) The ~~commission~~ department shall manage a data collection system for obtaining information necessary to develop the policy reports and analyses required by Sections 25301 to 25307, inclusive, the energy shortage contingency planning efforts in Chapter 8 (commencing with Section 25700), and to support other duties of the ~~commission~~ department.

(b) The data collection system, adopted by regulation under Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and managed by the ~~commission~~ department shall:

(1) Include a timetable for the submission of this information, so that the integrated energy policy report required by Section 25302 can be completed in an accurate and timely manner.

(2) Require a person to submit only information that is reasonably relevant, and that the person can either be expected to



1 acquire through his or her market activities, or possesses or  
2 controls. Information collected pursuant to this section shall  
3 relate to the functional role of each category of market  
4 participant in that industry and the consumers within that  
5 industry.

6 (3) To the extent it satisfies the information needs of the  
7 ~~commission~~ *department*, rely on the use of estimates and proxies,  
8 to the maximum extent practicable, for some data elements using  
9 survey and research techniques, while for other information it  
10 shall obtain data from market participants using submissions  
11 consistent with their accounting records. In determining whether  
12 to rely upon estimates or participant provided data, the  
13 ~~commission~~ *department* shall weigh the burden of compliance  
14 upon industry participants and energy consumers against the  
15 benefit of participant provided data for the public interest.

16 (4) To the extent it satisfies the information needs of the  
17 ~~commission~~ *department*, rely on data, to the maximum extent  
18 practicable, that is reported to other government agencies or is  
19 otherwise available to the ~~commission~~ *department*.

20 (c) Pursuant to the requirements of subdivision (b), the data  
21 collection system for electricity and natural gas shall enumerate  
22 specific requirements for each category of market participants,  
23 including, but not limited to, private market participants, energy  
24 service providers, energy service companies, natural gas  
25 marketers, electric utility and natural gas utility companies,  
26 independent generators, electric transmission entities, natural gas  
27 producers, natural gas pipeline operators, importers and exporters  
28 of electricity and natural gas, and specialized electric or natural  
29 gas system operators. The ~~commission~~ *department* may also  
30 collect information about consumers' natural gas and electricity  
31 use from their voluntary participation in surveys and other  
32 research techniques.

33 (d) Pursuant to the requirements of subdivision (b), the data  
34 collection system for nonpetroleum fuels and transportation  
35 technologies shall enumerate specific requirements for each  
36 category of market participant, including, but not limited to, fuel  
37 importers and exporters, fuel distributors and retailers, fuel  
38 pipeline operators, natural gas liquid producers, and  
39 transportation technology providers. The ~~commission~~ *department*  
40 may also collect information about consumers' nonpetroleum



1 fuel and transportation technology use from their voluntary  
2 participation in surveys and other research techniques.

3 (e) The ~~commission~~ department shall collect data for  
4 petroleum fuel pursuant to Chapter 4.5 (commencing with  
5 Section 25350). The ~~commission~~ department may also collect  
6 information about consumers' petroleum fuel use from  
7 consumers' participation in surveys and other research  
8 techniques.

9 *SEC. 95. Section 25321 of the Public Resources Code is*  
10 *amended to read:*

11 25321. In order to ensure timely and accurate compliance  
12 with the data collection system adopted under Section 25320, the  
13 ~~commission~~ department may use any of the following  
14 enforcement measures:

15 (a) If any person fails to comply with an applicable provision  
16 of the data collection system, the ~~commission~~ department shall  
17 notify the person. If, after five working days from being notified  
18 of the violation, the person continues to fail to comply, the  
19 person shall be subject to a civil penalty, to be imposed by the  
20 ~~commission~~ department after a hearing that complies with  
21 constitutional requirements.

22 (1) The civil penalty shall not be less than five hundred dollars  
23 (\$500) nor more than two thousand dollars (\$2,000) for each  
24 category of data the person did not provide and for each day the  
25 violation has existed and continues to exist.

26 (2) In the case of a person who willfully makes any false  
27 statement, representation, or certification in any record, report,  
28 plan, or other document filed with the ~~commission~~ department,  
29 the civil penalty shall not be less than five hundred dollars (\$500)  
30 nor more than two thousand dollars (\$2,000) per day applied to  
31 each day in the interval between the original due date and the  
32 date when corrected information is submitted.

33 (b) For the purposes of this section, "person" means, in  
34 addition to the definition contained in Section 25116, any  
35 responsible corporate officer.

36 (c) Enforcement measures for petroleum and other fuels shall  
37 be those contained in Section 25362.

38 *SEC. 96. Section 25322 of the Public Resources Code is*  
39 *amended to read:*



1 25322. (a) The data collection system managed pursuant to  
2 Section 25320 shall include the following requirements regarding  
3 the confidentiality of the information collected by the  
4 ~~commission~~ department:

5 (1) Any person required to present information to the  
6 ~~commission~~ department pursuant to this section may request that  
7 specific information be held in confidence. The ~~commission~~  
8 department shall grant the request in any of the following  
9 circumstances:

10 (A) The information is exempt from disclosure under the  
11 California Public Records Act, Chapter 3.5 (commencing with  
12 Section 6250) of Division 7 of Title 1 of the Government Code.

13 (B) The information satisfies the confidentiality requirements  
14 of Article 2 (commencing with Section 2501) of Chapter 7 of  
15 Division 2 of Title 20 of the California Code of Regulations, as  
16 those regulations existed on January 1, 2002.

17 (C) On the facts of the particular case, the public interest  
18 served by not disclosing the information clearly outweighs the  
19 public interest served by disclosure of the information.

20 (2) The ~~commission~~ department may, by regulation, designate  
21 certain categories of information as confidential, which removes  
22 the obligation to request confidentiality for that information.

23 (3) Any confidential information pertinent to the  
24 responsibilities of the ~~commission~~ department specified in this  
25 chapter that is obtained by another state agency, or the California  
26 Independent System Operator or its successor, shall be available  
27 to the ~~commission~~ department and shall be treated in a  
28 confidential manner.

29 (4) Information presented to or developed by the ~~commission~~  
30 department and deemed confidential pursuant to this section shall  
31 be held in confidence by the ~~commission~~ department.  
32 Confidential information shall be aggregated or masked to the  
33 extent necessary to assure confidentiality if public disclosure of  
34 the specific information would result in an unfair competitive  
35 disadvantage to the person supplying the information.

36 (b) Requests for records of information shall be handled as  
37 follows:

38 (1) If the ~~commission~~ department receives a written request to  
39 publicly disclose information that is being held in confidence  
40 pursuant to paragraph (1) or (2) of subdivision (a), the



1 ~~commission~~ *department* shall provide the person making the  
2 request with written justification for the confidential designation  
3 and a description of the process to seek disclosure.

4 (2) If the ~~commission~~ *department* receives a written request to  
5 publicly disclose a disaggregated or unmasked record of  
6 information designated as confidential under paragraph (1) or (2)  
7 of subdivision (a), notice of the request shall be provided to the  
8 person that submitted the record. Upon receipt of the notice, the  
9 person that submitted the record may, within five working days  
10 of receipt of the notice, provide a written justification of the  
11 claim of confidentiality.

12 (3) The ~~commission~~ *department* or its designee shall rule on a  
13 request made pursuant to paragraph (2) on or before 20 working  
14 days after its receipt. The ~~commission~~ *department* shall deny the  
15 request if the disclosure will result in an unfair competitive  
16 disadvantage to the person that submitted the information.

17 (4) If the ~~commission~~ *department* grants the request pursuant  
18 to paragraph (3), it shall withhold disclosure for a reasonable  
19 amount of time, not to exceed 14 working days, to allow the  
20 submitter of the information to seek judicial review.

21 (c) No information submitted to the ~~commission~~ *department*  
22 pursuant to this section is confidential if the person submitting  
23 the information has made it public.

24 (d) The ~~commission~~ *department* shall establish, maintain, and  
25 use appropriate security practices and procedures to ensure that  
26 the information it has designated as confidential, or received with  
27 a confidential designation from another government agency, is  
28 protected against disclosure other than that authorized using the  
29 procedures in subdivision (b). The ~~commission~~ *department* shall  
30 incorporate the following elements into its security practices and  
31 procedures:

32 (1) *Commission Department* employees shall sign a  
33 confidential data disclosure agreement providing for various  
34 remedies, including, but not limited to, fines and termination for  
35 wrongful disclosure of confidential information.

36 (2) ~~Commission~~—*Department* employees, or contract  
37 employees of the ~~commission~~ *department*, shall only have access  
38 to confidential information when it is appropriate to their job  
39 assignments and if they have signed a nondisclosure agreement.



(3) Computer data systems that hold confidential information shall include sufficient security measures to protect the data from inadvertent or wrongful access by unauthorized ~~commission~~ *department* employees and the public.

(e) Data collected by the ~~commission~~ *department* on petroleum fuels in Section 25320 shall be subject to the confidentiality provisions of Sections 25364 to 25366, inclusive.

*SEC. 97. Section 25323 of the Public Resources Code is amended to read:*

25323. Nothing in this division shall authorize the ~~commission~~ *department* in the performance of its analytical, planning, siting, or certification responsibilities to mandate a specified supply plan for any utility.

*SEC. 98. Section 25324 of the Public Resources Code is amended to read:*

25324. The ~~commission~~ *department*, in consultation with the Public Utilities Commission, the California Independent System Operator, transmission owners, users, and consumers, shall adopt a strategic plan for the state's electric transmission grid using existing resources. The strategic plan shall identify and recommend actions required to implement investments needed to ensure reliability, relieve congestion, and meet future growth in load and generation, including, but not limited to, renewable resources, energy efficiency, and other demand reduction measures. The plan shall be included in the integrated energy policy report adopted on November 1, 2005, pursuant to subdivision (a) of Section 25302.

*SEC. 99. Section 25354 of the Public Resources Code is amended to read:*

25354. (a) Each refiner and major marketer shall submit information each month to the ~~commission~~ *department* in ~~such~~ *the* form and extent as the ~~commission~~ *department* prescribes pursuant to this section. The information shall be submitted within 30 days after the end of each monthly reporting period and shall include the following:

(1) Refiners shall report, for each of their refineries, feedstock inputs, origin of petroleum receipts, imports of finished petroleum products and blendstocks, by type, including the source of those imports, exports of finished petroleum products and blendstocks, by type, including the destination of those



1 exports, refinery outputs, refinery stocks, and finished product  
2 supply and distribution, including all gasoline sold unbranded by  
3 the refiner, blender, or importer.

4 (2) Major marketers shall report on petroleum product receipts  
5 and the sources of these receipts, inventories of finished  
6 petroleum products and blendstocks, by type, distributions  
7 through branded and unbranded distribution networks, and  
8 exports of finished petroleum products and blendstocks, by type,  
9 from the state.

10 (b) Each major oil producer, refiner, marketer, oil transporter,  
11 and oil storer shall annually submit information to the  
12 ~~commission~~ department in ~~such~~ the form and extent as the  
13 ~~commission~~ department prescribes pursuant to this section. The  
14 information shall be submitted within 30 days after the end of  
15 each reporting period, and shall include the following:

16 (1) Major oil transporters shall report on petroleum by  
17 reporting the capacities of each major transportation system, the  
18 amount transported by each system, and inventories thereof. The  
19 ~~commission~~ department may prescribe rules and regulations that  
20 exclude pipeline and transportation modes operated entirely on  
21 property owned by major oil transporters from the reporting  
22 requirements of this section if the data or information is not  
23 needed to fulfill the purposes of this chapter. The provision of the  
24 information shall not be construed to increase or decrease any  
25 authority the Public Utilities Commission may otherwise have.

26 (2) Major oil storers shall report on storage capacity,  
27 inventories, receipts and distributions, and methods of  
28 transportation of receipts and distributions.

29 (3) Major oil producers shall, with respect to thermally  
30 enhanced oil recovery operations, report annually by designated  
31 oil field, the monthly use, as fuel, of crude oil and natural gas.

32 (4) Refiners shall report on facility capacity, and utilization  
33 and method of transportation of refinery receipts and  
34 distributions.

35 (5) Major oil marketers shall report on facility capacity and  
36 methods of transportation of receipts and distributions.

37 (c) Each person required to report pursuant to subdivision (a)  
38 shall submit a projection each month of the information to be  
39 submitted pursuant to subdivision (a) for the quarter following



1 the month in which the information is submitted to the  
2 ~~commission~~ department.

3 (d) In addition to the data required under subdivision (a), each  
4 integrated oil refiner (produces, refines, transports, and markets  
5 in interstate commerce) who supplies more than 500 branded  
6 retail outlets in California shall submit to the ~~commission~~  
7 department an annual industry forecast for Petroleum  
8 Administration for Defense, District V (covering Arizona,  
9 Nevada, Washington, Oregon, California, Alaska, and Hawaii).  
10 The forecast shall include the information to be submitted under  
11 subdivision (a), and shall be submitted by March 15 of each year.  
12 The ~~commission~~ department may require California-specific  
13 forecasts. However, those forecasts shall be required only if the  
14 ~~commission~~ department finds them necessary to carry out its  
15 responsibilities.

16 (e) The ~~commission~~ department may by order or regulation  
17 modify the reporting period as to any individual item of  
18 information setting forth in the order or regulation its reason for  
19 so doing.

20 (f) The ~~commission~~ department may request additional  
21 information as necessary to perform its responsibilities under this  
22 chapter.

23 (g) Any person required to submit information or data under  
24 this chapter, in lieu thereof, may submit a report made to any  
25 other governmental agency, if:

26 (1) The alternate report or reports contain all of the  
27 information or data required by specific request under this  
28 chapter.

29 (2) The person clearly identifies the specific request to which  
30 the alternate report is responsive.

31 (h) Each refiner shall submit to the ~~commission~~ department,  
32 within 30 days after the end of each monthly reporting period, all  
33 of the following information in ~~such the~~ form and ~~to the extent as~~  
34 that the ~~commission~~ department prescribes:

35 (1) Monthly California weighted average prices and sales  
36 volumes of finished leaded regular, unleaded regular, and  
37 premium motor gasoline sold through company-operated retail  
38 outlets, to other end users, and to wholesale customers.

39 (2) Monthly California weighted average prices and sales  
40 volumes for residential sales, commercial and institutional sales,



1 industrial sales, sales through company-operated retail outlets,  
2 sales to other end users, and wholesale sales of No. 2 diesel fuel  
3 and No. 2 fuel oil.

4 (3) Monthly California weighted average prices and sales  
5 volumes for retail sales and wholesale sales of No. 1 distillate,  
6 kerosene, finished aviation gasoline, kerosene-type jet fuel, No. 4  
7 fuel oil, residual fuel oil with 1 percent or less sulfur, residual  
8 fuel oil with greater than 1 percent sulfur and consumer grade  
9 propane.

10 (i) (1) Beginning the first week after the effective date of the  
11 act that added this subdivision, and each week thereafter, an oil  
12 refiner, oil producer, petroleum product transporter, petroleum  
13 product marketer, petroleum product pipeline operator, and  
14 terminal operator, as designated by the ~~commission~~ department,  
15 shall submit a report in the form and extent as the ~~commission~~  
16 department prescribes pursuant to this section. The ~~commission~~  
17 department may determine the form and extent necessary by  
18 order or by regulation.

19 (2) A report may include any of the following information:

20 (A) Receipts and inventory levels of crude oil and petroleum  
21 products at each refinery and terminal location.

22 (B) Amount of gasoline, diesel, jet fuel, blending components,  
23 and other petroleum products imported and exported.

24 (C) Amount of gasoline, diesel, jet fuel, blending components,  
25 and other petroleum products transported intrastate by marine  
26 vessel.

27 (D) Amount of crude oil imported, including information  
28 identifying the source of the crude oil.

29 (E) The regional average of invoiced retailer buying price.  
30 This subparagraph does not either preclude or augment the  
31 current authority of the ~~commission~~ department to collect  
32 additional data under subdivision (f).

33 (3) This subdivision is intended to clarify the ~~commission's~~  
34 department's existing authority under subdivision (f) to collect  
35 specific information. This subdivision does not either preclude or  
36 augment the existing authority of the ~~commission~~ department to  
37 collect information.

38 *SEC. 100. Section 25356 of the Public Resources Code is*  
39 *amended to read:*



1     25356. (a) The ~~commission~~ *department*, utilizing its own  
2 staff and other support staff having expertise and experience in,  
3 or with, the petroleum industry, shall gather, analyze, and  
4 interpret the information submitted to it pursuant to Section  
5 25354 and other information relating to the supply and price of  
6 petroleum products, with particular emphasis on motor vehicle  
7 fuels, including, but not limited to, all of the following:

8     (1) The nature, cause, and extent of any petroleum or  
9 petroleum products shortage or condition affecting supply.

10    (2) The economic and environmental impacts of any  
11 petroleum and petroleum product shortage or condition affecting  
12 supply.

13    (3) Petroleum or petroleum product demand and supply  
14 forecasting methodologies utilized by the petroleum industry in  
15 California.

16    (4) The prices, with particular emphasis on retail motor fuel  
17 prices, including sales to unbranded retail markets, and any  
18 significant changes in prices charged by the petroleum industry  
19 for petroleum or petroleum products sold in California and the  
20 reasons for those changes.

21    (5) The profits, both before and after taxes, of the industry as a  
22 whole and of major firms within it, including a comparison with  
23 other major industry groups and major firms within them as to  
24 profits, return on equity and capital, and price-earnings ratio.

25    (6) The emerging trends relating to supply, demand, and  
26 conservation of petroleum and petroleum products.

27    (7) The nature and extent of efforts of the petroleum industry  
28 to expand refinery capacity and to make acquisitions of  
29 additional supplies of petroleum and petroleum products,  
30 including activities relative to the exploration, development, and  
31 extraction of resources within the state.

32    (8) The development of a petroleum and petroleum products  
33 information system in a manner that will enable the state to take  
34 action to meet and mitigate any petroleum or petroleum products  
35 shortage or condition affecting supply.

36    (b) The ~~commission~~ *department* shall analyze the impacts of  
37 state and federal policies and regulations upon the supply and  
38 pricing of petroleum products.

39     *SEC. 101. Section 25357 of the Public Resources Code is*  
40 *amended to read:*



1     25357. The ~~commission~~ department shall obtain and analyze  
2 monthly production reports prepared by the State Oil and Gas  
3 Supervisor pursuant to Section 3227.

4     *SEC. 102. Section 25358 of the Public Resources Code is*  
5 *amended to read:*

6     25358. (a) Within 70 days after the end of each preceding  
7 quarter of each calendar year, the ~~commission~~ department shall  
8 publish and submit to the Governor and the Legislature a  
9 summary, an analysis, and an interpretation of the information  
10 submitted to it pursuant to Section 25354 and information  
11 reviewed pursuant to Section 25357. This report shall be separate  
12 from the report submitted pursuant to Section 25322. Any person  
13 may submit comments in writing regarding the accuracy or  
14 sufficiency of the information submitted.

15     (b) The ~~commission~~ department shall prepare a biennial  
16 assessment of the information provided pursuant to this chapter  
17 and shall include its assessment in the biennial fuels report  
18 prepared pursuant to Section 25310.

19     (c) The ~~commission~~ department may use reasonable means  
20 necessary and available to it to seek and obtain any facts, figures,  
21 and other information from any source for the purpose of  
22 preparing and providing reports to the Governor and the  
23 Legislature. The ~~commission~~ department shall specifically  
24 include in the reports its analysis of any unsuccessful attempts in  
25 obtaining information from potential sources, including the lack  
26 of cooperation or refusal to provide information.

27     (d) Whenever the ~~commission~~ department fails to provide any  
28 report required pursuant to this section within the specified time,  
29 it shall provide to all members of the Legislature, within five  
30 days of the specified time, a detailed written explanation of the  
31 cause of any delay.

32     *SEC. 103. Section 25362 of the Public Resources Code is*  
33 *amended to read:*

34     25362. (a) The ~~commission~~ department shall notify those  
35 persons who have failed to timely provide the information  
36 specified in Section 25354. If, within five days after being  
37 notified of the failure to provide the specified information, the  
38 person fails to supply the specified information, the person shall  
39 be subject to a civil penalty of not less than five hundred dollars  
40 (\$500) nor more than two thousand dollars (\$2,000) per day for



1 each day the submission of information is refused or delayed,  
2 unless the person has timely filed objections with the ~~commission~~  
3 ~~department~~ regarding the information and the ~~commission~~  
4 ~~department~~ has not yet held a hearing on the matter, or the  
5 ~~commission department~~ has held a hearing and the person has  
6 properly submitted the issue to a court of competent jurisdiction  
7 for review.

8 (b) Any person who willfully makes any false statement,  
9 representation, or certification in any record, report, plan, or  
10 other document filed with the ~~commission department~~ shall be  
11 subject to a civil penalty not to exceed two thousand dollars  
12 (\$2,000).

13 (c) For the purposes of this section, the term “person” shall  
14 mean, in addition to the definition contained in Section 25116,  
15 any responsible corporate officer.

16 *SEC. 104. Section 25364 of the Public Resources Code is*  
17 *amended to read:*

18 25364. (a) Any person required to present information to the  
19 ~~commission department~~ pursuant to Section 25354 may request  
20 that specific information be held in confidence. Information  
21 requested to be held in confidence shall be presumed to be  
22 confidential.

23 (b) Information presented to the ~~commission department~~  
24 pursuant to Section 25354 shall be held in confidence by the  
25 ~~commission department~~ or aggregated to the extent necessary to  
26 assure confidentiality if public disclosure of the specific  
27 information or data would result in unfair competitive  
28 disadvantage to the person supplying the information.

29 (c) (1) Whenever the ~~commission department~~ receives a  
30 request to publicly disclose unaggregated information, or  
31 otherwise proposes to publicly disclose information submitted  
32 pursuant to Section 25354, notice of the request or proposal shall  
33 be provided to the person submitting the information. The notice  
34 shall indicate the form in which the information is to be released.  
35 Upon receipt of notice, the person submitting the information  
36 shall have 10 working days in which to respond to the notice to  
37 justify the claim of confidentiality on each specific item of  
38 information covered by the notice on the basis that public  
39 disclosure of the specific information would result in unfair



1 competitive disadvantage to the person supplying the  
2 information.

3 (2) The ~~commission~~ *department* shall consider the  
4 respondent's submittal in determining whether to publicly  
5 disclose the information submitted to it to which a claim of  
6 confidentiality is made. The ~~commission~~ *department* shall issue a  
7 written decision which sets forth its reasons for making the  
8 determination whether each item of information for which a  
9 claim of confidentiality is made shall remain confidential or shall  
10 be publicly disclosed.

11 (d) The ~~commission~~ *department* shall not make public  
12 disclosure of information submitted to it pursuant to Section  
13 25354 within 10 working days after the ~~commission~~ *department*  
14 has issued its written decision required in this section.

15 (e) No information submitted to the ~~commission~~ *department*  
16 pursuant to Section 25354 shall be deemed confidential if the  
17 person submitting the information or data has made it public.

18 (f) With respect to petroleum products and blendstocks  
19 reported by type pursuant to paragraph (1) or (2) of subdivision  
20 (a) of Section 25354 and information provided pursuant to  
21 subdivision (h) or (i) of Section 25354, neither the ~~commission~~  
22 *department* nor any employee of the ~~commission~~ *department*  
23 may do any of the following:

24 (1) Use the information furnished under paragraph (1) or (2) of  
25 subdivision (a) of Section 25354 or under subdivision (h) or (i) of  
26 Section 25354 for any purpose other than the statistical purposes  
27 for which it is supplied.

28 (2) Make any publication whereby the information furnished  
29 by any particular establishment or individual under paragraph (1)  
30 or (2) of subdivision (a) of Section 25354 or under subdivision  
31 (h) or (i) of Section 25354 can be identified.

32 (3) Permit anyone other than ~~commission~~ *department*  
33 members and employees of the ~~commission~~ *department* to  
34 examine the individual reports provided under paragraph (1) or  
35 (2) of subdivision (a) of Section 25354 or under subdivision (h)  
36 or (i) of Section 25354.

37 (g) Notwithstanding any other provision of law, the  
38 ~~commission~~ *department* may disclose confidential information  
39 received pursuant to subdivision (a) of Section 25304 or Section  
40 25354 to the State Air Resources Board if the state board agrees



1 to keep the information confidential. With respect to the  
2 information it receives, the state board shall be subject to all  
3 pertinent provisions of this section.

4 *SEC. 105. Section 25366 of the Public Resources Code is*  
5 *amended to read:*

6 25366. Any confidential information pertinent to the  
7 responsibilities of the ~~commission~~ department specified in this  
8 division which is obtained by another state agency shall be  
9 available to the ~~commission~~ department and shall be treated in a  
10 confidential manner.

11 *SEC. 106. Section 25400 of the Public Resources Code is*  
12 *amended to read:*

13 25400. The ~~commission~~ department shall conduct an ongoing  
14 assessment of the opportunities and constraints presented by all  
15 forms of energy. The ~~commission~~ department shall encourage the  
16 balanced use of all sources of energy to meet the state's needs  
17 and shall seek to avoid possible undesirable consequences of  
18 reliance on a single source of energy.

19 *SEC. 107. Section 25401 of the Public Resources Code is*  
20 *amended to read:*

21 25401. The ~~commission~~ department shall continuously carry  
22 out studies, research projects, data collection, and other activities  
23 required to assess the nature, extent, and distribution of energy  
24 resources to meet the needs of the state, including but not limited  
25 to, fossil fuels and solar, nuclear, and geothermal energy  
26 resources. It shall also carry out studies, technical assessments,  
27 research projects, and data collection directed to reducing  
28 wasteful, inefficient, unnecessary, or uneconomic uses of energy,  
29 including, but not limited to, all of the following:

- 30 (a) Pricing of electricity and other forms of energy.
- 31 (b) Improved building design and insulation.
- 32 (c) Restriction of promotional activities designed to increase  
33 the use of electrical energy by consumers.
- 34 (d) Improved appliance efficiency.
- 35 (e) Advances in power generation and transmission  
36 technology.
- 37 (f) Comparisons in the efficiencies of alternative methods of  
38 energy utilization.

39 The ~~commission~~ department shall survey pursuant to this  
40 section all forms of energy on which to base its recommendations



1 to the Governor and Legislature for elimination of waste or  
2 increases in efficiency for sources or uses of energy. The  
3 ~~commission~~ *department* shall transmit to the Governor and the  
4 Legislature, as part of the biennial report specified in Section  
5 25309, recommendations for state policy and actions for the  
6 orderly development of all potential sources of energy to meet  
7 the state's needs, including, but not limited to, fossil fuels and  
8 solar, nuclear, and geothermal energy resources, and to reduce  
9 wasteful and inefficient uses of energy.

10 *SEC. 108. Section 25401.2 of the Public Resources Code is*  
11 *amended to read:*

12 25401.2. (a) As part of the report required by Section 25302,  
13 the ~~commission~~ *department* shall develop and update an  
14 inventory of current and potential cost-effective opportunities in  
15 each utility's service territory, to improve efficiencies and to help  
16 utilities manage loads in all sectors of natural gas and electricity  
17 use. The report shall include estimates of the overall magnitude  
18 of these resources, load shapes, and the projected costs associated  
19 with delivering the various types of energy savings that are  
20 identified in the inventory. The report shall also estimate the  
21 amount and incremental cost per unit of potential energy  
22 efficiency and load management activities. Where applicable, the  
23 inventory shall include data on variations in savings and costs  
24 associated with particular measures. The report shall take into  
25 consideration environmental benefits as developed in related  
26 ~~commission department and public utilities commission~~ *Public*  
27 *Utilities Commission* proceedings.

28 (b) The ~~commission~~ *department* shall develop and maintain  
29 the inventory in consultation with electric and gas utilities, the  
30 Public Utilities Commission, academic institutions, and other  
31 interested parties.

32 (c) The ~~commission~~ *department* shall convene a technical  
33 advisory group to develop an analytic framework for the  
34 inventory, to discuss the level of detail at which the inventory  
35 would operate, and to ensure that the inventory is consistent with  
36 other demand-side databases. Privately owned electric and gas  
37 utilities shall provide financial support, gather data, and provide  
38 analysis for activities that the technical advisory group  
39 recommends. The technical advisory group shall terminate on  
40 January 1, 1993.



1     *SEC. 109. Section 25401.5 of the Public Resources Code is*  
2     *amended to read:*

3     25401.5. For the purpose of reducing electrical and natural  
4     gas energy consumption, the ~~commission~~ *department* may  
5     develop and disseminate measures that would enhance energy  
6     efficiency for single-family residential dwellings that were built  
7     prior to the development of the current energy efficiency  
8     standards. The measures, if developed and disseminated, shall  
9     provide a homeowner with information to improve the energy  
10    efficiency of a single-family residential dwelling. The  
11    ~~commission~~ *department* may comply with this section by posting  
12    the measures on the commission's Internet Web site or by  
13    making the measures available to the public, upon request.

14    *SEC. 110. Section 25401.6 of the Public Resources Code is*  
15    *amended to read:*

16    25401.6. (a) In its administration of Section 25744, the  
17    ~~commission~~ *department* shall establish a separate rebate for  
18    eligible distributed emerging technologies for affordable housing  
19    projects including, but not limited to, projects undertaken  
20    pursuant to Section 50052.5, 50053, or 50199.4 of the Health and  
21    Safety Code. In establishing the rebate, where the ~~commission~~  
22    ~~department~~ determines that the occupants of the housing shall  
23    have individual meters, the ~~commission~~ *department* may adjust  
24    the amount of the rebate based on the capacity of the system,  
25    provided that a system may receive a rebate only up to 75 percent  
26    of the total installed costs. The ~~commission~~ *department* may  
27    establish a reasonable limit on the total amount of funds  
28    dedicated for purposes of this section.

29    (b) It is the intent of the Legislature that this section fulfills the  
30    purpose of paragraph (5) of subdivision (b) of Section 25744.

31    *SEC. 111. Section 25401.7 of the Public Resources Code is*  
32    *amended to read:*

33    25401.7. At the time a single-family residential dwelling is  
34    sold, a buyer or seller may request a home inspection, as defined  
35    in subdivision (a) of Section 7195 of the Business and  
36    Professions Code, and a home inspector, as defined in  
37    subdivision (d) of Section 7195 of the Business and Professions  
38    Code, shall provide, contact information for one or more of the  
39    following entities that provide home energy information:

40    (a) A nonprofit organization.



1 (b) A provider to the residential dwelling of electrical service,  
2 or gas service, or both.

3 (c) A government agency, including, but not limited to, the  
4 ~~commission~~ department.

5 *SEC. 112. Section 25402 of the Public Resources Code is*  
6 *amended to read:*

7 25402. The commission, *with staff support from the*  
8 *department*, shall, after one or more public hearings, do all of the  
9 following, in order to reduce the wasteful, uneconomic,  
10 inefficient, or unnecessary consumption of energy:

11 (a) Prescribe, by regulation, lighting, insulation climate control  
12 system, and other building design and construction standards that  
13 increase the efficiency in the use of energy for new residential  
14 and new nonresidential buildings. The standards shall be cost  
15 effective, when taken in their entirety, and when amortized over  
16 the economic life of the structure when compared with historic  
17 practice. The commission shall periodically update the standards  
18 and adopt any revision that, in its judgment, it deems necessary.  
19 Six months after the commission certifies an energy conservation  
20 manual pursuant to subdivision (c) of Section 25402.1, no city,  
21 county, city and county, or state agency shall issue a permit for  
22 any building unless the building satisfies the standards prescribed  
23 by the commission pursuant to this subdivision or subdivision (b)  
24 of this section that are in effect on the date an application for a  
25 building permit is filed.

26 (b) Prescribe, by regulation, energy conservation design  
27 standards for new residential and new nonresidential buildings.  
28 The standards shall be performance standards and shall be  
29 promulgated in terms of energy consumption per gross square  
30 foot of floorspace, but may also include devices, systems, and  
31 techniques required to conserve energy. The standards shall be  
32 cost effective when taken in their entirety, and when amortized  
33 over the economic life of the structure when compared with  
34 historic practices. The commission shall periodically review the  
35 standards and adopt any revision that, in its judgment, it deems  
36 necessary. A building that satisfies the standards prescribed  
37 pursuant to this subdivision need not comply with the standards  
38 prescribed pursuant to subdivision (a). The commission shall  
39 comply with this subdivision before January 1, 1981.



1 (c) (1) Prescribe, by regulation, standards for minimum levels  
2 of operating efficiency, based on a reasonable use pattern, and  
3 may prescribe other cost-effective measures, including incentive  
4 programs, fleet averaging, energy consumption labeling not  
5 preempted by federal labeling, and consumer education  
6 programs, to promote the use of energy efficient appliances  
7 whose use, as determined by the commission, requires a  
8 significant amount of energy on a statewide basis. The minimum  
9 levels of operating efficiency shall be based on feasible and  
10 attainable efficiencies or feasible improved efficiencies that will  
11 reduce the electrical energy consumption growth rate. The  
12 standards shall become effective no sooner than one year after  
13 the date of adoption or revision. No new appliance manufactured  
14 on or after the effective date of the standards may be sold or  
15 offered for sale in the state, unless it is certified by the  
16 manufacturer thereof to be in compliance with the standards. The  
17 standards shall be drawn so that they do not result in any added  
18 total costs to the consumer over the designed life of the  
19 appliances concerned.

20 (2) No new appliance, except for any plumbing fitting,  
21 regulated under paragraph (1), which is manufactured on or after  
22 July 1, 1984, may be sold, or offered for sale, in the state, unless  
23 the date of the manufacture is permanently displayed in an  
24 accessible place on that appliance.

25 (3) During the period of five years after the commission has  
26 adopted a standard for a particular appliance under paragraph (1),  
27 no increase or decrease in the minimum level of operating  
28 efficiency required by the standard for that appliance shall  
29 become effective, unless the commission adopts other  
30 cost-effective measures for that appliance.

31 (4) Neither the commission nor any other state agency shall  
32 take any action to decrease any standard adopted under this  
33 subdivision on or before June 30, 1985, prescribing minimum  
34 levels of operating efficiency or other energy conservation  
35 measures for any appliance, unless the commission finds by a  
36 four-fifths vote that a decrease is of benefit to ratepayers, and  
37 that there is significant evidence of changed circumstances. Prior  
38 to January 1, 1986, the commission shall not take any action to  
39 increase any standard prescribing minimum levels of operating  
40 efficiency for any appliance or adopt any new standard under



1 paragraph (1). Prior to January 1, 1986, any appliance  
2 manufacturer doing business in this state shall provide directly,  
3 or through an appropriate trade or industry association,  
4 information, as specified by the commission after consultation  
5 with manufacturers doing business in the state and appropriate  
6 trade or industry associations on sales of appliances so that the  
7 commission may study the effects of regulations on those sales.  
8 These informational requirements shall remain in effect until the  
9 information is received. The trade or industry association may  
10 submit sales information in an aggregated form in a manner that  
11 allows the commission to carry out the purposes of the study.  
12 The commission shall treat any sales information of an individual  
13 manufacturer as confidential and that information shall not be a  
14 public record. The commission shall not request any information  
15 that cannot be reasonably produced in the exercise of due  
16 diligence by the manufacturer. At least one year prior to the  
17 adoption or amendment of a standard for an appliance, the  
18 commission shall notify the Legislature of its intent, and the  
19 justification therefor, to adopt or amend a standard for the  
20 appliance. Notwithstanding paragraph (3) and this paragraph, the  
21 commission may do any of the following:

22 (A) Increase the minimum level of operating efficiency in an  
23 existing standard up to the level of the National Voluntary  
24 Consensus Standards 90, adopted by the American Society of  
25 Heating, Refrigeration, and Air Conditioning Engineers or, for  
26 appliances not covered by that standard, up to the level  
27 established in a similar nationwide consensus standard.

28 (B) Change the measure or rating of efficiency of any  
29 standard, if the minimum level of operating efficiency remains  
30 substantially the same.

31 (C) Adjust the minimum level of operating efficiency in an  
32 existing standard in order to reflect changes in test procedures  
33 that the standards require manufacturers to use in certifying  
34 compliance, if the minimum level of operating efficiency remains  
35 substantially the same.

36 (D) Readopt a standard preempted, enjoined, or otherwise  
37 found legally defective by an administrative agency or a lower  
38 court, if final legal action determines that the standard is valid  
39 and if the standard that is readopted is not more stringent than the  
40 standard that was found to be defective or preempted.



1 (E) Adopt or amend any existing or new standard at any level  
2 of operating efficiency, if the Governor has declared an energy  
3 emergency pursuant to Section 8558 of the Government Code.

4 (5) Notwithstanding paragraph (4), the commission may adopt  
5 standards pursuant to commission order No. 84-0111-1, on or  
6 before June 30, 1985.

7 (d) Recommend minimum standards of efficiency for the  
8 operation of any new facility at a particular site that are  
9 technically and economically feasible. No site and related facility  
10 shall be certified pursuant to Chapter 6 (commencing with  
11 Section 25500), unless the applicant certifies that standards  
12 recommended by the commission have been considered, which  
13 certification shall include a statement specifying the extent to  
14 which conformance with the recommended standards will be  
15 achieved.

16 Whenever this section and Chapter 11.5 (commencing with  
17 Section 19878) of Part 3 of Division 13 of the Health and Safety  
18 Code are in conflict, the commission shall be governed by that  
19 chapter of the Health and Safety Code to the extent of the  
20 conflict.

21 (e) The commission shall do all of the following:

22 (1) Not later than January 1, 2004, amend any regulations in  
23 effect on January 1, 2003, pertaining to the energy efficiency  
24 standards for residential clothes washers to require that  
25 residential clothes washers manufactured on or after January 1,  
26 2007, be at least as water efficient as commercial clothes  
27 washers.

28 (2) Not later than April 1, 2004, petition the federal  
29 Department of Energy for an exemption from any relevant  
30 federal regulations governing energy efficiency standards that are  
31 applicable to residential clothes washers.

32 (3) Not later than January 1, 2005, report to the Legislature on  
33 its progress with respect to the requirements of paragraphs (1)  
34 and (2).

35 *SEC. 113. Section 25402.1 of the Public Resources Code is*  
36 *amended to read:*

37 25402.1. In order to implement the requirements of  
38 subdivisions (a) and (b) of Section 25402, the commission *and*  
39 *the department* shall do all of the following:



1 (a) Develop a public domain computer program which will  
2 enable contractors, builders, architects, engineers, and  
3 government officials to estimate the energy consumed by  
4 residential and nonresidential buildings. The ~~commission~~  
5 *department* may charge a fee for the use of the program, which  
6 fee shall be based upon the actual cost of the program, including  
7 any computer costs.

8 (b) Establish a formal process for certification of compliance  
9 options for new products, materials, and calculation methods  
10 which provides for adequate technical and public review to  
11 ensure accurate, equitable, and timely evaluation of certification  
12 applications. Proponents filing applications for new products,  
13 materials, and calculation methods shall provide all information  
14 needed to evaluate the application that is required by the  
15 commission. The ~~commission~~ *department* shall publish annually  
16 the results of its certification decisions and instructions to users  
17 and local building officials concerning requirements for showing  
18 compliance with the building standards for new products,  
19 materials, or calculation methods. The ~~commission~~ *department*  
20 may charge and collect a reasonable fee from applicants to cover  
21 the costs under this subdivision. Any funds received by the  
22 ~~commission~~ *department* for purposes of this subdivision shall be  
23 deposited in the Energy Resources Programs Account and,  
24 notwithstanding Section 13340 of the Government Code, are  
25 continuously appropriated to the ~~commission~~ *department* for the  
26 purposes of this subdivision. Any unencumbered portion of funds  
27 collected as a fee for an application remaining in the Energy  
28 Resources Programs Account after completion of the certification  
29 process for that application shall be returned to the applicant  
30 within a reasonable period of time.

31 (c) Include a prescriptive method of complying with the  
32 standards, including design aids such as a manual, sample  
33 calculations, and model structural designs.

34 (d) Conduct a pilot project of field testing of actual residential  
35 buildings to calibrate and identify potential needed changes in the  
36 modeling assumptions to increase the accuracy of the public  
37 domain computer program specified in subdivision (a) and to  
38 evaluate the impacts of the standards, including, but not limited  
39 to, the energy savings, cost effectiveness, and the effects on  
40 indoor air quality. The pilot project shall be conducted pursuant



1 to a contract entered into by the ~~commission~~ *department*. The  
2 ~~commission~~ *department* shall consult with the participants  
3 designated pursuant to Section 9202 of the Public Utilities Code  
4 to seek funding and support for field monitoring in each public  
5 utility service territory, with the University of California to take  
6 advantage of its extensive building monitoring expertise, and  
7 with the California Building Industry Association to coordinate  
8 the involvement of builders and developers throughout the state.  
9 The pilot project shall include periodic public workshops to  
10 develop plans and review progress. The ~~commission~~ *department*  
11 shall prepare and submit a report to the Legislature on progress  
12 and initial findings not later than December 31, 1988, and a final  
13 report on the results of the pilot project on residential buildings  
14 not later than June 30, 1990. The report shall include  
15 recommendations regarding the need and feasibility of  
16 conducting further monitoring of actual residential and  
17 nonresidential buildings. The report shall also identify any  
18 revisions to the public domain computer program and energy  
19 conservation standards if the pilot project determines that  
20 revisions are appropriate.

21 (e) Certify, not later than 180 days after approval of the  
22 standards by the ~~State~~ *California* Building Standards  
23 Commission, an energy conservation manual for use by  
24 designers, builders, and contractors of residential and  
25 nonresidential buildings. The manual shall be furnished upon  
26 request at a price sufficient to cover the costs of production and  
27 shall be distributed at no cost to all affected local agencies. The  
28 manual shall contain, but not be limited to, the following:

29 (1) The standards for energy conservation established by the  
30 commission.

31 (2) Forms, charts, tables, and other data to assist designers and  
32 builders in meeting the standards.

33 (3) Design suggestions for meeting or exceeding the standards.

34 (4) Any other information which the ~~commission~~ *department*  
35 finds will assist persons in conforming to the standards.

36 (5) Instructions for use of the computer program for  
37 calculating energy consumption in residential and nonresidential  
38 buildings.

39 (6) The prescriptive method for use as an alternative to the  
40 computer program.



(f) The ~~commission~~ *department* shall establish a continuing program of technical assistance to local building departments in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The program shall include the training of local officials in building technology and enforcement procedures related to energy conservation, and the development of complementary training programs conducted by local governments, educational institutions, and other public or private entities. The technical assistance program shall include the preparation and publication of forms and procedures for local building departments in performing the review of building plans and specifications. The ~~commission~~ *department* shall provide, on a contract basis, a review of building plans and specifications submitted by a local building department, and shall adopt a schedule of fees sufficient to repay the cost of those services.

(g) Subdivisions (a) and (b) of Section 25402 and this section, and the rules and regulations of the commission adopted pursuant thereto, shall be enforced by the building department of every city, county, or city and county.

(1) No building permit for any residential or nonresidential building shall be issued by a local building department, unless a review by the building department of the plans for the proposed residential or nonresidential building contains detailed energy system specifications and confirms that the building satisfies the minimum standards established pursuant to subdivision (a) or (b) of Section 25402 and this section applicable to the building.

(2) Where there is no local building department, the ~~commission~~ *department* shall enforce subdivisions (a) and (b) of Section 25402 and this section.

(3) If a local building department fails to enforce subdivisions (a) and (b) of Section 25402 and this section or any other provision of this chapter or standard adopted pursuant thereto, the ~~commission~~ *department* may provide enforcement after furnishing 10 days' written notice to the local building department.

(4) A city, county, or city and county may, by ordinance or resolution, prescribe a schedule of fees sufficient to pay the costs incurred in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The ~~commission~~ *department* may



1 establish a schedule of fees sufficient to pay the costs incurred by  
2 that enforcement.

3 (5) No construction of any state building shall commence until  
4 the Department of General Services or the state agency that  
5 otherwise has jurisdiction over the property reviews the plans for  
6 the proposed building and certifies that the plans satisfy the  
7 minimum standards established pursuant to subdivision (a) or (b)  
8 of Chapter 2.8 (commencing with Section 15814.30) of Part 10b  
9 of Division 3 of Title 2 of the Government Code, Section 25402,  
10 and this section which are applicable to the building.

11 (h) Subdivisions (a) and (b) of Section 25402 and this section  
12 shall apply only to new residential and nonresidential buildings  
13 on which actual site preparation and construction have not  
14 commenced prior to the effective date of rules and regulations  
15 adopted pursuant to those sections that are applicable to those  
16 buildings. Nothing in those sections shall prohibit either of the  
17 following:

18 (1) The enforcement of state or local energy conservation or  
19 energy insulation standards, adopted prior to the effective date of  
20 rules and regulations adopted pursuant to subdivisions (a) and (b)  
21 of Section 25402 and this section with regard to residential and  
22 nonresidential buildings on which actual site preparation and  
23 construction have commenced prior to that date.

24 (2) The enforcement of city or county energy conservation or  
25 energy insulation standards, whenever adopted, with regard to  
26 residential and nonresidential buildings on which actual site  
27 preparation and construction have not commenced prior to the  
28 effective date of rules and regulations adopted pursuant to  
29 subdivisions (a) and (b) of Section 25402 and this section, if the  
30 city or county files the basis of its determination that the  
31 standards are cost effective with the ~~commission~~ department and  
32 the commission finds that the standards will require the  
33 diminution of energy consumption levels permitted by the rules  
34 and regulations adopted pursuant to those sections. If, after two  
35 or more years after the filing with the ~~commission~~ department of  
36 the determination that those standards are cost effective, there  
37 has been a substantial change in the factual circumstances  
38 affecting the determination, upon application by any interested  
39 party, the city or county shall update and file a new basis of its  
40 determination that the standards are cost effective. The



determination that the standards are cost effective shall be adopted by the governing body of the city or county at a public meeting. If, at the meeting on the matter, the governing body determines that the standards are no longer cost effective, the standards shall, as of that date, be unenforceable and no building permit or other entitlement shall be denied based on the noncompliance with the standards.

(i) The ~~commission~~ department may exempt from the requirements of this section and of any regulations adopted pursuant thereto any proposed building for which compliance would be impossible without substantial delays and increases in cost of construction, if the ~~commission~~ department finds that substantial funds have been expended in good faith on planning, designing, architecture or engineering prior to the date of adoption of the regulations.

(j) If a dispute arises between an applicant for a building permit, or the state pursuant to paragraph (5) of subdivision (g), and the building department regarding interpretation of Section 25402 or the regulations adopted pursuant thereto, either party may submit the dispute to the commission for resolution. The commission's determination of the matter shall be binding on the parties.

(k) Nothing in Section 25130, 25131, or 25402, or in this section prevents enforcement of any regulation adopted pursuant to this chapter, or Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code as they existed prior to September 16, 1977.

*SEC. 114. Section 25402.3 of the Public Resources Code is amended to read:*

25402.3. For purposes of subdivision (e) of Section 25402.1, the ~~commission~~ department shall contract with California building officials to establish two regional training centers to provide continuing education for local building officials and enforcement personnel as follows:

(a) One site shall be located in northern California and one site shall be located in southern California to serve the needs of the respective regions.

(b) The centers shall provide training on a monthly basis to ensure a uniform understanding and implementation of the energy efficient building standards. Existing resources shall be



1 used as much as possible by utilizing members of the building  
2 official community in training activities.

3 (c) The centers shall provide similar training sessions, in the  
4 form of workshops given in designated rural areas, to ensure that  
5 adequate training is available throughout the state.

6 (1) A minimum of two workshops in northern California and  
7 two workshops in southern California shall be offered each year.

8 (2) The sites shall be selected to ensure the greatest number of  
9 participants will be served in areas of greatest need to decrease  
10 the financial burden on small rural or isolated local government  
11 agencies that would not be able to travel to the regional training  
12 centers for instruction.

13 *SEC. 115. Section 25402.6 of the Public Resources Code is*  
14 *amended to read:*

15 25402.6. The ~~commission~~ *department* shall investigate  
16 options and develop a plan to decrease wasteful peakload energy  
17 consumption in existing residential and nonresidential buildings.  
18 On or before January 1, 2004, the ~~commission~~ *department* shall  
19 report its findings to the Legislature, including, but not limited to,  
20 any changes in law necessary to implement the plan to decrease  
21 wasteful peakload energy consumption in existing residential and  
22 nonresidential buildings.

23 *SEC. 116. Section 25402.9 of the Public Resources Code is*  
24 *amended to read:*

25 25402.9. (a) On or before July 1, 1996, the ~~commission~~  
26 *department* shall develop, adopt, and publish an informational  
27 booklet to educate and inform homeowners, rental property  
28 owners, renters, sellers, brokers, and the general public about the  
29 statewide home energy rating program adopted pursuant to  
30 Section 25942.

31 (b) In the development of the booklet, the ~~commission~~  
32 *department* shall consult with representatives of the Department  
33 of Real Estate, the Department of Housing and Community  
34 Development, the Public Utilities Commission, investor-owned  
35 and municipal utilities, cities and counties, real estate licensees,  
36 home builders, mortgage lenders, home appraisers and  
37 inspectors, home energy rating organizations, contractors who  
38 provide home energy services, consumer groups, and  
39 environmental groups.



1 (c) The ~~commission~~ department shall charge a fee for the  
2 informational booklet to recover its costs under subdivision (a).

3 *SEC. 117. Section 25403 of the Public Resources Code is*  
4 *amended to read:*

5 25403. The ~~commission~~ department shall submit to the Public  
6 Utilities Commission and to any publicly owned electric utility,  
7 recommendations designed to reduce wasteful, unnecessary, or  
8 uneconomic energy consumption resulting from practices  
9 including, but not limited to, differential rate structures,  
10 cost-of-service allocations, the disallowance of a business  
11 expense of advertising or promotional activities which encourage  
12 the use of electrical power, peakload pricing, and other pricing  
13 measures. The Public Utilities Commission or publicly owned  
14 electric utility shall review and consider ~~such~~ these  
15 recommendations and shall, within six months after the date it  
16 receives them, as prescribed by this section, report to the  
17 Governor and the Legislature its actions and reasons therefor  
18 with respect to ~~such~~ the recommendations.

19 *SEC. 118. Section 25403.5 of the Public Resources Code is*  
20 *amended to read:*

21 25403.5. (a) The ~~commission~~ department shall, ~~by July 1,~~  
22 ~~1978,~~ adopt standards by regulation for a program of electrical  
23 load management for each utility service area. In adopting the  
24 standards, the ~~commission~~ department shall consider, but need  
25 not be limited to, the following load management techniques:

26 (1) Adjustments in rate structure to encourage use of electrical  
27 energy at off-peak hours or to encourage control of daily  
28 electrical load. Compliance with those adjustments in rate  
29 structure shall be subject to the approval of the Public Utilities  
30 Commission in a proceeding to change rates or service.

31 (2) End use storage systems which store energy during  
32 off-peak periods for use during peak periods.

33 (3) Mechanical and automatic devices and systems for the  
34 control of daily and seasonal peakloads.

35 (b) The standards shall be cost effective when compared with  
36 the costs for new electrical capacity, and the ~~commission~~  
37 department shall find them to be technologically feasible. Any  
38 expense or any capital investment required of a utility by the  
39 standards shall be an allowable expense or an allowable item in



1 the utility rate base and shall be treated by the Public Utilities  
2 Commission as allowable in a rate proceeding.

3 The ~~commission~~ department may determine that one or more  
4 of the load management techniques are infeasible and may delay  
5 their adoption. If the ~~commission~~ department determines that any  
6 techniques are infeasible to implement, it shall make a finding in  
7 each instance stating the grounds upon which the determination  
8 was made and the actions it intends to take to remove the  
9 impediments to implementation.

10 (c) The ~~commission~~ department may also grant, upon  
11 application by a utility, an exemption from the standards or a  
12 delay in implementation. The grant of an exemption or delay  
13 shall be accompanied by a statement of findings by the  
14 ~~commission~~ department indicating the grounds for the exemption  
15 or delay. Exemption or delay shall be granted only upon a  
16 showing of extreme hardship, technological infeasibility, lack of  
17 cost-effectiveness, or reduced system reliability and efficiency.

18 (d) This section does not apply to proposed sites and related  
19 facilities for which a notice of intent or an application requesting  
20 certification has been filed with the ~~commission~~ department prior  
21 to the effective date of the standards.

22 *SEC. 119. Section 25403.8 of the Public Resources Code is*  
23 *amended to read:*

24 25403.8. (a) The ~~commission~~ department shall develop and  
25 implement a program to provide battery backup power for those  
26 official traffic control signals, operated by a city, county, or city  
27 and county, that the ~~commission~~ department, in consultation with  
28 cities, counties, or cities and counties, determines to be  
29 high-priority traffic control signals.

30 (b) Based on traffic factors considered by cities, counties, or  
31 cities and counties, including, but not limited to, traffic volume,  
32 number of accidents, and presence of children, the ~~commission~~  
33 department shall determine a priority schedule for the installation  
34 of battery backup power for traffic control systems. The  
35 ~~commission~~ department shall give priority to a city, county, or  
36 city and county that did not receive a grant from the State of  
37 California for the installation of light-emitting diode traffic  
38 control signals.

39 (c) The ~~commission~~ department shall also develop or adopt  
40 the necessary technical criteria as to wiring, circuitry, and



1 recharging units for traffic control signals. Only light-emitting  
2 diodes (LED) traffic control signals are eligible for battery  
3 backup power for the full operation of the traffic control signal or  
4 a flashing red mode. A city, county, or city and county may apply  
5 for a matching grant for battery backup power for traffic control  
6 signals retrofitted with light-emitting diodes.

7 (d) Based on the criteria described in subdivision (c), the  
8 ~~commission~~ department shall provide matching grants to cities,  
9 counties, and cities and counties for backup battery systems  
10 described in this section in accordance with the priority schedule  
11 established by the ~~commission~~ department pursuant to  
12 subdivision (b). The ~~commission~~ department shall provide 70  
13 percent of the funds for a battery backup system, and the city,  
14 county, or city and county shall provide 30 percent.

15 (e) If a city, county, or city and county has installed a backup  
16 battery system for LED traffic control signals between January 1,  
17 2001, and the effective date of the act adding this section, the  
18 ~~commission~~ department may reimburse the city, county, or city  
19 and county for up to 30 percent of the cost incurred for the  
20 backup battery system installation. However, the ~~commission~~  
21 department may not spend more than one million five hundred  
22 thousand dollars (\$1,500,000) for reimbursements pursuant to  
23 this subdivision.

24 *SEC. 120. Section 25404 of the Public Resources Code is*  
25 *amended to read:*

26 25404. The ~~commission~~ department shall cooperate with the  
27 Office of Planning and Research, the Resources Agency and  
28 other interested parties in developing procedures to ensure that  
29 mitigation measures to minimize wasteful, inefficient, and  
30 unnecessary consumption of energy are included in all  
31 environmental impact reports required on local projects as  
32 specified in Section 21151.

33 *SEC. 121. Section 25410.5 of the Public Resources Code is*  
34 *amended to read:*

35 25410.5. The Legislature finds and declares all of the  
36 following:

37 (a) Energy costs are frequently the second largest discretionary  
38 expense in a local government's budget. According to the  
39 ~~commission~~ department, most public institutions could reduce  
40 their energy costs by 20 to 30 percent.



(b) A variety of energy conservation measures are available to local governments. These measures are highly cost effective, often providing a payback on the initial investment in three years or less.

(c) Many local governments lack energy management expertise and are often unaware of their high energy costs or the opportunities to reduce those costs.

(d) Local governments that desire to reduce their energy costs through energy conservation and efficiency measures often lack available funding.

(e) Since 1980, the Energy Conservation Assistance Account has provided \$110 million in loans, through a revolving loan account, to 600 schools, hospitals, and local governments. The energy conservation projects funded by the account save approximately \$35 million annually in energy costs.

(f) Local governments and public institutions need assistance in all aspects of energy efficiency improvements, including, but not limited to, project identification, project development and implementation, evaluation of project proposals and options, operations and maintenance, and troubleshooting of problem projects.

*SEC. 122. Section 25410.6 of the Public Resources Code is amended to read:*

25410.6. (a) It is the intent of the Legislature that the ~~commission~~ department shall administer the State Energy Conservation Assistance Account to provide grants and loans to local governments and public institutions to maximize energy use savings, including, but not limited to, technical assistance, demonstrations, and identification and implementation of cost-effective energy efficiency measures and programs in existing and planned buildings or facilities.

(b) It is further the intent of the Legislature that the ~~commission~~ department seek the assistance of utility companies in providing energy audits for local governments and public institutions and in publicizing the availability of State Energy Conservation Assistance Account funds to qualified entities.

*SEC. 123. Section 25412 of the Public Resources Code is amended to read:*

25412. Any eligible institution may submit an application to the ~~commission~~ department for an allocation for the purpose of



1 financing all or a portion of the costs incurred in implementing a  
2 project. The application shall be in ~~such~~ the form and contain  
3 ~~such the~~ information ~~as that the commission department~~ shall  
4 prescribe.

5 An application may be for the purpose of financing the eligible  
6 institution's share of ~~such the~~ costs which are to be jointly funded  
7 through a state, local, or federal-local program.

8 *SEC. 124. Section 25413 of the Public Resources Code is*  
9 *amended to read:*

10 25413. Applications may be approved by the ~~commission~~  
11 ~~department~~ only in those instances where the eligible institution  
12 has furnished information satisfactory to the ~~commission~~  
13 ~~department~~ that the costs of the project, plus interest on state  
14 funds loaned, calculated in accordance with Section 25415, will  
15 be recovered through savings in the cost of energy to the  
16 institution during the repayment period of the allocation.

17 The savings shall be calculated in a manner prescribed by the  
18 ~~commission department~~.

19 *SEC. 125. Section 25414 of the Public Resources Code is*  
20 *amended to read:*

21 25414. Annually at the conclusion of each fiscal year, but not  
22 later than October 31, each eligible institution which has received  
23 an allocation pursuant to the provisions of this chapter shall  
24 compute the cost of the energy saved as a result of implementing  
25 a project funded by ~~such that~~ allocation. ~~Such~~ The cost shall be  
26 calculated in a manner prescribed by the ~~commission department~~.

27 *SEC. 126. Section 25415 of the Public Resources Code is*  
28 *amended to read:*

29 25415. (a) Each eligible institution to which an allocation has  
30 been made under this chapter shall repay the principal amount of  
31 the allocation, plus interest, in not more than 30 equal  
32 semiannual payments, as determined by the ~~commission~~  
33 ~~department~~. The first semiannual payment shall be made on or  
34 before December 22 of the fiscal year following the year in  
35 which the project is completed. The repayment period may not  
36 exceed the life of the equipment, as determined by the  
37 ~~commission department~~ or the lease term of the building in  
38 which the energy conservation measures will be installed.

39 (b) Notwithstanding any other provision of law, the  
40 ~~commission department~~ shall, unless it determines that the



1 purposes of this chapter would be better served by establishing  
2 an alternative interest rate schedule, periodically set interest rates  
3 on the loans based on surveys of existing financial markets and at  
4 rates not less than 3 percent per annum.

5 (c) The governing body of each eligible institution shall  
6 annually budget an amount at least sufficient to make the  
7 semiannual payments required in this section. The amount shall  
8 not be raised by the levy of additional taxes but shall instead be  
9 obtained by a savings in energy costs or other sources.

10 *SEC. 127. Section 25416 of the Public Resources Code is*  
11 *amended to read:*

12 25416. (a) The State Energy Conservation Assistance  
13 Account is hereby created in the General Fund. Notwithstanding  
14 Section 13340 of the Government Code, the account is  
15 continuously appropriated to the ~~commission~~ department without  
16 regard to fiscal year.

17 (b) The money in the account shall consist of all money  
18 authorized or required to be deposited in the account by the  
19 Legislature and all money received by the ~~commission~~  
20 department pursuant to Sections 25414 and 25415.

21 (c) The money in the account shall be disbursed by the  
22 Controller for the purposes of this chapter as authorized by the  
23 ~~commission~~ department.

24 (d) The ~~commission~~ department may contract and provide  
25 grants for services to be performed for eligible institutions.  
26 Services may include, but are not limited to, feasibility analysis,  
27 project design, field assistance, and operation and training. The  
28 amount expended for those services may not exceed 10 percent  
29 of the balance of the account as determined by the ~~commission~~  
30 department on July 1 of each year.

31 (e) The ~~commission~~ department may make grants for  
32 innovative projects and programs. The amount expended for  
33 grants may not exceed 5 percent of the annual appropriation from  
34 the account.

35 (f) The ~~commission~~ department may charge a fee for the  
36 services provided under subdivision (d).

37 *SEC. 128. Section 25417 of the Public Resources Code is*  
38 *amended to read:*

39 25417. (a) An allocation made pursuant to this chapter shall  
40 be used for the purposes specified in an approved application.



(b) In the event that the ~~commission~~ *department* determines that an allocation has been expended for purposes other than those specified in an approved application, it shall immediately request the return of the full amount of the allocation. The eligible institution shall immediately comply with ~~such~~ the request.

SEC. 129. Section 25417.5 of the Public Resources Code is amended to read:

25417.5. (a) In furtherance of the purposes of the ~~commission~~ *department* as set forth in this chapter, the ~~commission~~ *department* has the power and authority to do all of the following:

(1) Borrow money, for the purpose of obtaining funds to make loans pursuant to this chapter, from the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, and the California Consumer Power and Conservation Financing Authority from the proceeds of revenue bonds issued by any of those agencies.

(2) Pledge, to provide collateral in connection with the borrowing of money pursuant to paragraph (1), loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), or the principal and interest payments on loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440).

(3) Sell loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), at prices determined in the sole discretion of the ~~commission~~ *department*, to the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, and the California Consumer Power and Conservation Financing Authority to raise funds to enable the ~~commission~~ *department* to make loans to eligible institutions.

(4) Enter into loan agreements or other contracts necessary or appropriate in connection with the pledge or sale of loans pursuant to paragraph (2) or (3), or the borrowing of money as provided in paragraph (1), containing any provisions that may be required by the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, or the ~~California Consumer Power and Conservation Financing Authority~~ *department* as conditions of



1 issuing bonds to fund loans to, or the purchase of loans from, the  
2 ~~commission~~ department.

3 (b) In connection with the pledging of loans, or of the  
4 principal and interest payment on loans, pursuant to paragraph  
5 (2) of subdivision (a), the ~~commission~~ department may enter into  
6 pledge agreements setting forth the terms and conditions  
7 pursuant to which the ~~commission~~ department is pledging loans  
8 or the principal and interest payment on loans, and may also  
9 agree to have the loans held by bond trustees or by independent  
10 collateral or escrow agents and to direct that payments received  
11 on those loans be paid to those trustee, collateral, or escrow  
12 agents.

13 (c) The ~~commission~~ department may employ financial  
14 consultants, legal advisers, accountants, and other service  
15 providers, as may be necessary in its judgment, in connection  
16 with activities pursuant to this chapter.

17 (d) Notwithstanding any other provision of law, this chapter  
18 provides a complete, separate, additional, and alternative method  
19 for implementing the measures authorized by this chapter,  
20 including the authority of the eligible institutions or local  
21 jurisdictions to have borrowed and to borrow in the future  
22 pursuant to loans made pursuant to this chapter or Chapter 5.4  
23 (commencing with Section 25440), and is supplemental and  
24 additional to powers conferred by other laws.

25 *SEC. 130. Section 25419 of the Public Resources Code is*  
26 *amended to read:*

27 25419. In addition to the powers specifically granted to the  
28 ~~commission~~ department by the other provisions of this chapter,  
29 the ~~commission~~ department shall have the following powers:

30 (a) To establish qualifications and priorities, consistent with  
31 the objectives of this chapter, for making allocations.

32 (b) To establish ~~such~~ those procedures and policies as may be  
33 necessary for the administration of this chapter.

34 *SEC. 131. Section 25420 of the Public Resources Code is*  
35 *amended to read:*

36 25420. The ~~commission~~ department may expend from the  
37 State Energy Conservation Assistance Account an amount to pay  
38 for the actual administrative costs incurred by the ~~commission~~  
39 department pursuant to this chapter. ~~Such~~ The amount shall not  
40 exceed 5 percent of the total appropriation, to be held in reserve



1 and used to defray costs incurred by the ~~commission~~ department  
2 for allocations made by the ~~commission~~ department pursuant to  
3 this chapter.

4 *SEC. 132. Section 25426 of the Public Resources Code is*  
5 *amended to read:*

6 25426. As used in this article, the following terms have the  
7 following meanings:

8 (a) “Commercial refrigeration” means a refrigerator that is not  
9 a federally regulated consumer product.

10 (b) “Energy-efficient model” means any appliance that meets  
11 the efficiency standards of the United States Department of  
12 Energy that are effective on and after July 1, 2001, and, if  
13 applicable, products certified as energy efficient zone heating  
14 products by the ~~State Energy Resources Conservation and~~  
15 ~~Development Commission~~ department.

16 (c) “Small business” means any small business as defined in  
17 paragraph (1) of subdivision (d) of Section 14837 of the  
18 Government Code.

19 *SEC. 133. Section 25433.5 of the Public Resources Code is*  
20 *amended to read:*

21 25433.5. (a) In consultation with the Public Utilities  
22 Commission, the ~~commission~~ department shall do both of the  
23 following for the purpose of full or partial funding of an eligible  
24 construction or retrofit project:

25 (1) Establish a grant program to provide financial assistance to  
26 eligible low-income individuals.

27 (2) Establish a 2-percent interest per annum loan program to  
28 provide financial assistance to a small business owner, residential  
29 property owner, or individual who is not eligible for a grant  
30 pursuant to paragraph (1). The loans shall be available to a small  
31 business owner who has a gross annual income that does not  
32 exceed one hundred thousand dollars (\$100,000) or to an  
33 individual or residential property owner who has a gross annual  
34 household income that does not exceed one hundred thousand  
35 dollars (\$100,000).

36 (b) (1) The ~~commission~~ department shall use the design  
37 guidelines adopted pursuant to paragraph (2) of subdivision (f) of  
38 Section 14 of the act that added this section as standards to  
39 determine eligible energy-efficiency projects.



1 (2) The award of a grant pursuant to this section is subject to  
2 appeal to the ~~commission~~ department upon a showing that the  
3 ~~commission~~ department applied factors, other than those adopted  
4 by the ~~commission~~ department, in making the award.

5 (3) The grant or loan recipient shall commit to using the grant  
6 or loan for the purpose for which the grant or loan was awarded.

7 (4) Any action taken by an applicant to apply for, or to  
8 become or remain eligible to receive, a grant award, including  
9 satisfying conditions specified by the ~~commission~~ department,  
10 does not constitute the rendering of goods, services, or a direct  
11 benefit to the ~~commission~~ department.

12 (5) The amount of any grant awarded pursuant to this article to  
13 a low-income individual does not constitute income for purposes  
14 of calculating the recipient's gross income for the tax year during  
15 which the grant is received.

16 *SEC. 134. Section 25434 of the Public Resources Code is*  
17 *amended to read:*

18 25434. The ~~commission~~ department may contract with one or  
19 more business entities capable of supplying or providing goods  
20 or services necessary for the ~~commission~~ department to carry out  
21 the responsibilities for the programs conducted pursuant to this  
22 article, and shall contract with one or more business entities to  
23 evaluate the effectiveness of the programs implemented pursuant  
24 to subdivision (a) of Section 25433.5. The ~~commission~~  
25 department may select an entity on a sole source basis for one or  
26 both of those purposes if the cost to the state will be reasonable  
27 and the ~~commission~~ department determines that it is in the best  
28 interest of the state.

29 *SEC. 135. Section 25434.5 of the Public Resources Code is*  
30 *amended to read:*

31 25434.5. As used in this article, the following terms have the  
32 following meanings:

33 (a) "Eligible construction or retrofit project" means a project  
34 for making improvements to a home or building in existence on  
35 the effective date of the act adding this section, through an  
36 addition, alteration, or repair, which effectively increases the  
37 energy efficiency or reduces the energy consumption of the home  
38 or building as specified by the ~~commission's~~ departmental  
39 guidelines under paragraph (2) of subdivision (f) of Section 14 of



1 the act that added this section. The improvements shall be  
2 deemed to be cost effective.

3 (b) “Low income” means an individual with a gross annual  
4 income equal to or less than 200 percent of the federal poverty  
5 level.

6 (c) “Small business” means any small business as defined in  
7 paragraph (1) of subdivision (d) of Section 14837 of the  
8 Government Code.

9 *SEC. 136. Section 25435 of the Public Resources Code is*  
10 *amended to read:*

11 25435. The ~~commission~~ department shall administer the  
12 Small Business Energy Efficient Refrigeration Loan Program, as  
13 provided for in Section 25436.

14 *SEC. 137. Section 25436 of the Public Resources Code is*  
15 *amended to read:*

16 25436. (a) Within 45 days of the effective date of this  
17 chapter, the ~~commission~~ department shall implement a Small  
18 Business Energy Efficient Refrigeration Loan Program for  
19 qualifying small businesses to purchase and install energy  
20 efficient refrigeration equipment.

21 (b) The program shall offer loans at 3 percent interest on terms  
22 that will ensure the small business owner will repay the loan over  
23 time in accordance with terms established by the ~~Energy~~  
24 ~~Commission~~ department, but in no event may the term exceed  
25 the useful life of the purchase.

26 (c) The ~~commission~~ department may enter into agreements  
27 with lending institutions and qualifying vendors to facilitate  
28 making and administering loans. Any loan made by the  
29 ~~commission~~ department for the purchase of equipment shall be  
30 secured against the equipment purchased.

31 *SEC. 138. Section 25441 of the Public Resources Code is*  
32 *amended to read:*

33 25441. The ~~commission~~ department shall provide financial  
34 assistance to local jurisdictions for the purpose of providing staff  
35 training and support services, including, but not limited to,  
36 planning design, permitting, energy conservation, comprehensive  
37 energy management, project evaluation, and development of  
38 alternative energy resources.

39 *SEC. 139. Section 25442 of the Public Resources Code is*  
40 *amended to read:*



1     25442. The ~~commission~~ department shall provide loans to  
2 local jurisdictions for all of the following purposes:

3     (a) Purchase, maintenance, and evaluation of energy efficient  
4 equipment for existing and new facilities, including, but not  
5 limited to, equipment related to lights, motors, pumps, water and  
6 wastewater systems, boilers, heating, and air-conditioning.

7     (b) Purchase, maintenance, and evaluation of small power  
8 production systems, including, but not limited to, wind,  
9 cogeneration, photovoltaics, geothermal, and hydroelectric  
10 systems.

11     (c) Improve the operating efficiency of existing local  
12 transportation systems.

13     *SEC. 140. Section 25442.5 of the Public Resources Code is*  
14 *amended to read:*

15     25442.5. The ~~commission~~ department may award financial  
16 assistance for project audits, feasibility studies, engineering and  
17 design, and legal and financial analysis related to the purposes of  
18 Section 25442.

19     *SEC. 141. Section 25442.7 of the Public Resources Code is*  
20 *amended to read:*

21     25442.7. (a) Loans under this article may not exceed five  
22 million dollars (\$5,000,000) for any one local jurisdiction unless  
23 the ~~commission~~ department determines, ~~by unanimous vote~~, that  
24 the public interest and objectives of this chapter would be better  
25 served at a higher loan amount.

26     (b) Loan repayments shall be made in accordance with a  
27 schedule established by the ~~commission~~ department. Repayment  
28 of loans shall be made in full unless the ~~commission~~ department  
29 determines, ~~by unanimous vote~~, that the public interest and  
30 objectives of this chapter would be better served by negotiating a  
31 reduced loan repayment for a project that fails to meet the  
32 technical or financial performance criteria through no fault of the  
33 local jurisdiction.

34     *SEC. 142. Section 25443 of the Public Resources Code is*  
35 *amended to read:*

36     25443. (a) Principal and interest payments on loans under  
37 this article shall be returned to the ~~commission~~ department and  
38 shall be used to make additional loans to local jurisdictions  
39 pursuant to Section 25442 or to provide financial assistance to  
40 local jurisdictions pursuant to Section 25441.



(b) Notwithstanding any other provision of law, the ~~commission~~ department shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans based on surveys of existing financial markets and at rates not less than 3 percent per annum.

SEC. 143. Section 25443.5 of the Public Resources Code is amended to read:

25443.5. (a) In furtherance of the purposes of the ~~commission~~ department as set forth in this chapter, the ~~commission~~ department has the power and authority to do all of the following:

(1) Borrow money, for the purpose of obtaining funds to make loans pursuant to this chapter, from the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, and the California Consumer Power and Conservation Financing Authority from the proceeds of revenue bonds issued by any of those agencies.

(2) Pledge, to provide collateral in connection with the borrowing of money pursuant to paragraph (1), loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), or the principal and interest payments on loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410).

(3) Sell loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), at prices determined in the sole discretion of the ~~commission~~ department, to the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, and the ~~California Consumer Power and Conservation Financing Authority~~ department to raise funds to enable the commission to make loans to eligible institutions.

(4) Enter into loan agreements or other contracts necessary or appropriate in connection with the pledge or sale of loans pursuant to paragraph (2) or (3), or the borrowing of money as provided in paragraph (1), containing any provisions that may be required by the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, or the ~~California Consumer Power and Conservation Financing Authority~~ department as conditions of



1 issuing bonds to fund loans to, or the purchase of loans from, the  
2 ~~commission~~ department.

3 (b) In connection with the pledging of loans, or of the  
4 principal and interest payment on loans, pursuant to paragraph  
5 (2) of subdivision (a), the ~~commission~~ department may enter into  
6 pledge agreements setting forth the terms and conditions  
7 pursuant to which the ~~commission~~ department is pledging loans  
8 or the principal and interest payment on loans, and may also  
9 agree to have the loans held by bond trustees or by independent  
10 collateral or escrow agents and to direct that payments received  
11 on those loans be paid to those trustee, collateral, or escrow  
12 agents.

13 (c) The ~~commission~~ department may employ financial  
14 consultants, legal advisers, accountants, and other service  
15 providers, as may be necessary in its judgment, in connection  
16 with activities pursuant to this chapter.

17 (d) Notwithstanding any other provision of law, this chapter  
18 provides a complete, separate, additional, and alternative method  
19 for implementing the measures authorized by this chapter,  
20 including the authority of the eligible institutions or local  
21 jurisdictions to have borrowed and to borrow in the future  
22 pursuant to loans made pursuant to this chapter or Chapter 5.2  
23 (commencing with Section 25410), and is supplemental and  
24 additional to powers conferred by other laws.

25 *SEC. 144. Section 25445 of the Public Resources Code is*  
26 *amended to read:*

27 25445. The ~~commission~~ department shall design a local  
28 jurisdiction energy assistance program for the purpose of  
29 providing financial assistance under Article 2 (commencing with  
30 Section 25441) and providing loans under Article 3  
31 (commencing with Section 25442). A local jurisdiction's energy  
32 assistance program shall be funded through the ~~commission's~~  
33 *department's* existing local government assistance programs,  
34 except that if a project is not eligible for funding under an  
35 existing program, the ~~commission~~ department may fund the  
36 project under this chapter.

37 *SEC. 145. Section 25449 of the Public Resources Code is*  
38 *amended to read:*

39 25449. The ~~commission~~ department shall enter into an  
40 agreement with the Regents of the University of California, the



1 Trustees of the California State University, and the Board of  
2 Governors of the California Community Colleges for the  
3 expenditure of petroleum violation escrow funds to supplement,  
4 and not supplant, other available funds to improve energy  
5 efficiency at state-supported universities and colleges under their  
6 respective jurisdictions by funding projects involving any of the  
7 following:

- 8 (a) Data collection.
- 9 (b) Establishment of operations and maintenance standards.
- 10 (c) Staff training.
- 11 (d) Ongoing energy equipment maintenance.
- 12 (e) Projects involving heating, ventilation, air-conditioning,  
13 and lighting equipment.

14 *SEC. 146. Section 25449.1 of the Public Resources Code is*  
15 *amended to read:*

16 25449.1. The ~~commission~~ department shall enter into an  
17 agreement with the State Department of Education to expend  
18 petroleum violation escrow funds to supplement, and not  
19 supplant, other available funds in order to provide loans to school  
20 districts to purchase, maintain, and evaluate energy efficient  
21 equipment and small power production systems.

22 *SEC. 147. Section 25449.2 of the Public Resources Code is*  
23 *amended to read:*

24 25449.2. Not later than three years after the imposition of any  
25 fees pursuant to this chapter, the ~~commission~~ department shall  
26 report to the Legislature in the biennial energy conservation  
27 report required by Section 25401.1, on the effect of those fees on  
28 alternative public and private financing for public sector  
29 programs.

30 *SEC. 148. Section 25449.3 of the Public Resources Code is*  
31 *amended to read:*

32 25449.3. (a) The Local Jurisdiction Energy Assistance  
33 Account is hereby created in the General Fund. All money  
34 appropriated for purposes of this chapter and all money received  
35 from local jurisdictions from loan repayments shall be deposited  
36 in the account and disbursed by the Controller as authorized by  
37 the ~~commission~~ department.

38 (b) The ~~commission~~ department may charge a fee for the  
39 services provided under this chapter.



(c) The ~~commission~~ department may contract for services to be performed by eligible institutions, as defined in subdivision (c) of Section 25411. Those services may include, but are not limited to, performance of a feasibility analysis, and providing project design, field evaluation, and operation and training assistance. The amount expended for contract services may not exceed 10 percent of the annual scheduled loan repayment to the Local Jurisdiction Energy Assistance Account, as determined by the ~~commission~~ department not later than July 1 of each fiscal year.

*SEC. 149. Section 25494 of the Public Resources Code is amended to read:*

25494. Not later than July 31, 1978, the ~~commission~~ department shall prepare a manual outlining a methodology by which governmental agencies and the general public may at their option compare the lifecycle costs of various building design alternatives. This manual will provide the information and procedures necessary to evaluate a building's lifecycle costs in the microclimate and utility service area where it is to be built.

*SEC. 150. Section 25496 of the Public Resources Code is amended to read:*

25496. No later than July 1, 1978, the commission shall develop and make available to government agencies and the general public to be utilized at their option lighting standards for existing buildings. These standards shall address, but not be limited to, task and general area lighting levels, light switching and control mechanisms, and lighting energy budgets. The ~~commission~~ department may provide advice and recommendations to the public or any governmental agency as to the standards.

*SEC. 151. Section 25509.5 of the Public Resources Code is amended to read:*

25509.5. No sooner than 15 days after the conclusion of the presentations pursuant to Section 25509, the commission shall commence nonadjudicatory hearings. ~~Such~~ The hearings shall identify issues for adjudication in hearings pursuant to Section 25513, issues which may be eliminated from further consideration in the notice proceedings, and issues which should be deferred to the certification proceeding. Any person may participate to the extent deemed reasonable and relevant by the



1 presiding member of the commission in any ~~such~~ hearing. In  
2 scheduling ~~such~~ hearings, the ~~presiding member shall confer with~~  
3 ~~the public adviser to provide~~ *commission shall ensure* that the  
4 hearing dates and locations are as convenient as possible for  
5 interested parties and the public. ~~Such~~ *The* hearings shall be  
6 conducted in order to accomplish all of the following purposes:

7 (a) To set forth the electrical demand basis for the proposed  
8 site and related facility.

9 (b) To provide knowledge and understanding of proposed  
10 facilities and sites.

11 (c) To obtain the views and comments of the public, parties,  
12 and concerned governmental agencies on the environmental,  
13 public health and safety, economic, social, and land use impacts  
14 of the facility at the proposed sites.

15 (d) To solicit information regarding reasonable alternative  
16 sources of the electric generating capacity or energy to be  
17 provided by alternative sites and related facilities, or  
18 combinations thereof, which will better carry out the policies and  
19 objectives of this division.

20 *SEC. 152. Section 25519 of the Public Resources Code is*  
21 *amended to read:*

22 25519. (a) In order to obtain certification for a site and  
23 related facility, an application for certification of the site and  
24 related facility shall be filed with the commission. The  
25 application shall be in a form prescribed by the commission and  
26 shall be for a site and related facility that has been found to be  
27 acceptable by the commission pursuant to Section 25516, or for  
28 an additional facility at a site that has been designated a potential  
29 multiple-facility site pursuant to Section 25514.5 and found to be  
30 acceptable pursuant to Sections 25516 and 25516.5. An  
31 application for an additional facility at a potential  
32 multiple-facility site shall be subject to the conditions and review  
33 specified in Section 25520.5. An application may not be filed for  
34 a site and related facility, if there is no suitable alternative for the  
35 site and related facility that was previously found to be  
36 acceptable by the commission, unless the commission has  
37 approved the notice based on the one site as specified in Section  
38 25516.

39 (b) *(1)* The commission, upon its own motion or in response  
40 to the request of any party, may require the applicant to submit



1 any information, document, or data, in addition to the  
2 attachments required by subdivision (i), that it determines is  
3 reasonably necessary to make any decision on the application.

4 (2) *Section 583 of the Public Utilities Code shall apply to*  
5 *sensitive or proprietary information that the commission requires*  
6 *a public utility to submit under this section with respect to an*  
7 *application made pursuant to the jurisdiction that is transferred*  
8 *to the commission pursuant to subdivision (b) of Section 1001 of*  
9 *the Public Utilities Code.*

10 (c) The commission shall be the lead agency, as provided in  
11 Section 21165, for all projects that require certification pursuant  
12 to this chapter and for projects that are exempted from ~~such~~  
13 certification pursuant to Section 25541. Unless the commission's  
14 regulatory program governing site and facility certification and  
15 related proceedings are certified by the Resources Agency  
16 pursuant to Section 21080.5, an environmental impact report  
17 shall be completed within one year after receipt of the  
18 application. If the commission prepares a document or  
19 documents in the place of an environmental impact report or  
20 negative declaration under a regulatory program certified  
21 pursuant to Section 21080.5, any other public agency that must  
22 make a decision that is subject to the California Environmental  
23 Quality Act, Division 13 (commencing with Section 21000), on a  
24 site or related facility, shall use the document or documents  
25 prepared by the commission in the same manner as they would  
26 use an environmental impact report or negative declaration  
27 prepared by a lead agency.

28 (d) If the site and related facility specified in the application is  
29 proposed to be located in the coastal zone, the commission shall  
30 transmit a copy of the application to the California Coastal  
31 Commission for its review and comments.

32 (e) If the site and related facility specified in the application is  
33 proposed to be located in the Suisun Marsh or the jurisdiction of  
34 the San Francisco Bay Conservation and Development  
35 Commission, the commission shall transmit a copy of the  
36 application to the San Francisco Bay Conservation and  
37 Development Commission for its review and comments.

38 (f) Upon receipt of an application, the commission shall  
39 forward the application to local governmental agencies having  
40 land use and related jurisdiction in the area of the proposed site



1 and related facility. Those local agencies shall review the  
2 application and submit comments on, among other things, the  
3 design of the facility, architectural and aesthetic features of the  
4 facility, access to highways, landscaping and grading, public use  
5 of lands in the area of the facility, and other appropriate aspects  
6 of the design, construction, or operation of the proposed site and  
7 related facility.

8 (g) Upon receipt of an application, the commission shall cause  
9 a summary of the application to be published in a newspaper of  
10 general circulation in the county in which the site and related  
11 facilities, or any part thereof, designated in the application, is  
12 proposed to be located. The commission shall transmit a copy of  
13 the application to each federal and state agency having  
14 jurisdiction or special interest in matters pertinent to the proposed  
15 site and related facilities and to the Attorney General.

16 (h) Local and state agencies having jurisdiction or special  
17 interest in matters pertinent to the proposed site and related  
18 facilities shall provide their comments and recommendations on  
19 the project within 180 days of the date of filing of an application.

20 (i) The adviser shall require that adequate notice is given to  
21 the public and that the procedures specified by this division are  
22 complied with.

23 (j) For any proposed site and related facility requiring a  
24 certificate of public convenience and necessity, the commission  
25 shall transmit a copy of the application to the Public Utilities  
26 Commission and request the comments and recommendations of  
27 the Public Utilities Commission on the economic, financial, rate,  
28 system reliability, and service implications of the proposed site  
29 and related facility. If the commission requires modification of  
30 the proposed facility, the commission shall consult with the  
31 Public Utilities Commission regarding the economic, financial,  
32 rate, system reliability, and service implications of those  
33 modifications.

34 (k) The commission shall transmit a copy of the application to  
35 any governmental agency not specifically mentioned in this act,  
36 but which it finds has any information or interest in the proposed  
37 site and related facilities, and shall invite the comments and  
38 recommendations of each agency. The commission shall request  
39 any relevant laws, ordinances, or regulations that an agency has  
40 promulgated or administered.



(l) An application for certification of any site and related facilities shall contain a listing of every federal agency from which any approval or authorization concerning the proposed site is required, specifying the approvals or authorizations obtained at the time of the application and the schedule for obtaining any approvals or authorizations pending.

*SEC. 153. Section 25521 of the Public Resources Code is amended to read:*

25521. No earlier than 90 nor later than 240 days after the date of the filing of an application, the commission shall commence a public hearing or hearings on the application in Sacramento, San Francisco, Los Angeles, or San Diego, whichever city is nearest the proposed site. Additionally, the commission may hold a hearing or hearings in the county in which the proposed site and related facilities are to be located. The commission hearings shall provide a reasonable opportunity for the public and all parties to the proceeding to comment upon the application and the ~~commission~~ department staff assessment and shall provide the equivalent opportunity for comment as required pursuant to Division 13 (commencing with Section 21000). Consistent with the requirements of this section, the commission shall have the discretion to determine whether or not a hearing is to be conducted in a manner that requires formal examination of witnesses or that uses other similar adjudicatory procedures.

*SEC. 154. Section 25531 of the Public Resources Code is amended to read:*

25531. (a) The decisions of the commission on any application for certification of a site and related facility are subject to judicial review by the Supreme Court of California. *The decisions of the commission on any application for certification of an electric transmission line, plant, system, or extension thereof, for which jurisdiction is transferred pursuant to Section 1001.1 of the Public Utilities Code, are reviewable by petition for a writ of review in the state Court of Appeal or the Supreme Court of California in the manner described in Section 1756 of the Public Utilities Code.*

(b) No new or additional evidence may be introduced upon review and the cause shall be heard on the record of the commission as certified to by it. The review shall not be



1 extended further than to determine whether the commission has  
2 regularly pursued its authority, including a determination of  
3 whether the order or decision under review violates any right of  
4 the petitioner under the United States Constitution or the  
5 California Constitution. The findings and conclusions of the  
6 commission on questions of fact are final and are not subject to  
7 review, except as provided in this article. These questions of fact  
8 shall include ultimate facts and the findings and conclusions of  
9 the commission. A report prepared by, or an approval of, the  
10 commission pursuant to Section 25510, 25514, 25516, or  
11 25516.5, or subdivision (b) of Section 25520.5, shall not  
12 constitute a decision of the commission subject to judicial  
13 review.

14 (c) Subject to the right of judicial review of decisions of the  
15 commission, no court in this state has jurisdiction to hear or  
16 determine any case or controversy concerning any matter which  
17 was, or could have been, determined in a proceeding before the  
18 commission, or to stop or delay the construction or operation of  
19 any thermal powerplant except to enforce compliance with the  
20 provisions of a decision of the commission.

21 (d) Notwithstanding Section 1250.370 of the Code of Civil  
22 Procedure:

23 (1) If the commission requires, pursuant to subdivision (a) of  
24 Section 25528, as a condition of certification of any site and  
25 related facility, that the applicant acquire development rights,  
26 that requirement conclusively establishes the matters referred to  
27 in Sections 1240.030 and 1240.220 of the Code of Civil  
28 Procedure in any eminent domain proceeding brought by the  
29 applicant to acquire the development rights.

30 (2) If the commission certifies any site and related facility, that  
31 certification conclusively establishes the matters referred to in  
32 Sections 1240.030 and 1240.220 of the Code of Civil Procedure  
33 in any eminent domain proceeding brought to acquire the site and  
34 related facility.

35 (e) No decision of the commission pursuant to Section 25516,  
36 25522, or 25523 shall be found to mandate a specific supply plan  
37 for any utility as prohibited by Section 25323.

38 *SEC. 155. Section 25534 of the Public Resources Code is*  
39 *amended to read:*



1 25534. (a) The commission may, after one or more hearings,  
2 amend the conditions of, or revoke the certification for, any  
3 facility for any of the following reasons:

4 (1) Any material false statement set forth in the application,  
5 presented in proceedings of the commission, or included in  
6 supplemental documentation provided by the applicant.

7 (2) Any significant failure to comply with the terms or  
8 conditions of approval of the application, as specified by the  
9 commission in its written decision.

10 (3) A violation of this division or any regulation or order  
11 issued by the commission under this division.

12 (4) The owner of a project does not start construction of the  
13 project within 12 months after the date all permits necessary for  
14 the project become final and all administrative and judicial  
15 appeals have been resolved ~~provided the California Consumer~~  
16 ~~Power and Conservation Financing Authority notifies the~~  
17 ~~commission that it is willing and able to construct the project~~  
18 ~~pursuant to subdivision (g).~~ The project owner may extend the  
19 12-month period by 24 additional months pursuant to subdivision  
20 (f). This paragraph applies only to projects with a project permit  
21 application deemed complete by the commission after January 1,  
22 2003.

23 (b) The commission may also administratively impose a civil  
24 penalty for a violation of paragraph (1) or (2) of subdivision (a).  
25 Any civil penalty shall be imposed in accordance with Section  
26 25534.1 and may not exceed seventy-five thousand dollars  
27 (\$75,000) per violation, except that the civil penalty may be  
28 increased by an amount not to exceed one thousand five hundred  
29 dollars (\$1,500) per day for each day in which the violation  
30 occurs or persists, but the total of the per day penalties may not  
31 exceed fifty thousand dollars (\$50,000).

32 (c) A project owner shall commence construction of a project  
33 subject to the start-of-construction deadline provided by  
34 paragraph (4) of subdivision (a) within 12 months after the  
35 project has been certified by the commission and after all  
36 accompanying project permits are final and administrative and  
37 judicial appeals have been completed. The project owner shall  
38 submit construction and commercial operation milestones to the  
39 commission within 30 days after project certification.  
40 Construction milestones shall require the start of construction



1 within the 12-month period established by this subdivision. The  
2 commission shall approve milestones within 60 days after project  
3 certification. If the 30-day deadline to submit construction  
4 milestones to the commission is not met, the commission shall  
5 establish milestones for the project.

6 (d) The failure of the owner of a project subject to the  
7 start-of-construction deadline provided by paragraph (4) of  
8 subdivision (a) to meet construction or commercial operation  
9 milestones, without a finding by the commission of good cause,  
10 shall be cause for revocation of certification or the imposition of  
11 other penalties by the commission.

12 (e) A finding by the commission that there is good cause for  
13 failure to meet the start-of-construction deadline required by  
14 paragraph (4) of subdivision (a) or any subsequent milestones of  
15 subdivision (c) shall be made if the commission determines that  
16 any of the following criteria are met:

17 (1) The change in any deadline or milestone does not change  
18 the established deadline or milestone for the start of commercial  
19 operation.

20 (2) The deadline or milestone is changed due to circumstances  
21 beyond the project owner's control, including, but not limited to,  
22 administrative and legal appeals.

23 (3) The deadline or milestone will be missed but the project  
24 owner demonstrates a good faith effort to meet the project  
25 deadline or milestone.

26 (4) The deadline or milestone will be missed due to unforeseen  
27 natural disasters or acts of God that prevent timely completion of  
28 the project deadline or milestone.

29 (5) The deadline or milestone will be missed for any other  
30 reason determined reasonable by the commission.

31 (f) The commission shall extend the start-of-construction  
32 deadline required by paragraph (4) of subdivision (a) by an  
33 additional 24 months, if the owner reimburses the commission's  
34 actual cost of licensing the project, less the amount paid pursuant  
35 to subdivision (a) of Section 25806. For the purposes of this  
36 section, the commission's actual cost of licensing the project  
37 shall be based on a certified audit report filed by the commission  
38 staff within 180 days of the commission's certification of the  
39 project. The certified audit shall be filed and served on all parties  
40 to the proceeding, is subject to public review and comment, and



1 is subject to at least one public hearing if requested by the project  
2 owner. Any reimbursement received by the commission pursuant  
3 to this subdivision shall be deposited in the General Fund.

4 ~~(g) If the owner of a project subject to the start-of-construction~~  
5 ~~deadline provided by paragraph (4) of subdivision (a) fails to~~  
6 ~~commence construction, without good cause, within 12 months~~  
7 ~~after the project has been certified by the commission and has not~~  
8 ~~received an extension pursuant to subdivision (f), the commission~~  
9 ~~shall provide immediate notice to the California Consumer~~  
10 ~~Power and Conservation Financing Authority. The authority shall~~  
11 ~~evaluate whether to pursue the project independently or in~~  
12 ~~conjunction with any other public or private entity, including the~~  
13 ~~original certificate holder. If the authority demonstrates to the~~  
14 ~~commission that it is willing and able to construct the project~~  
15 ~~either independently or in conjunction with any other public or~~  
16 ~~private entity, including the original certificate holder, the~~  
17 ~~commission may revoke the original certification and issue a new~~  
18 ~~certification for the project to the authority, unless the authority's~~  
19 ~~statutory authorization to finance or approve new programs,~~  
20 ~~enterprises, or projects has expired. If the authority declines to~~  
21 ~~pursue the project, the permit shall remain with the current~~  
22 ~~project owner until it expires pursuant to the regulations adopted~~  
23 ~~by the commission.~~

24 ~~(h) If the commission issues a new certification for a project~~  
25 ~~subject to the start-of-construction deadline provided by~~  
26 ~~paragraph (4) of subdivision (a) to the authority, the commission~~  
27 ~~shall adopt new milestones for the project that allow the authority~~  
28 ~~certificate holder up to 24 months to start construction of the~~  
29 ~~project or to start to meet the applicable deadlines or milestones.~~  
30 ~~If the authority certificate holder fails to begin construction in~~  
31 ~~conformity with the deadlines or milestones adopted by the~~  
32 ~~commission, without good cause, the certification may be~~  
33 ~~revoked.~~

34 ~~(i) (1) If the commission issues a new certification for a~~  
35 ~~project subject to the start-of-construction deadline provided by~~  
36 ~~paragraph (4) of subdivision (a) to the authority and the authority~~  
37 ~~pursues the project without participation of the original~~  
38 ~~certificate holder, the authority shall offer to reimburse the~~  
39 ~~original certificate holder for the actual costs the original~~  
40 ~~certificate holder incurred in permitting the project and in~~



1 ~~procuring assets associated with the license, including, but not~~  
2 ~~limited to, major equipment and the emission offsets. In order to~~  
3 ~~receive reimbursement, the original certificate holder shall~~  
4 ~~provide to the commission documentation of the actual costs~~  
5 ~~incurred in permitting the project. The commission shall validate~~  
6 ~~those costs. The certificate holder may refuse to accept the offer~~  
7 ~~of reimbursement for any asset associated with the license and~~  
8 ~~retain the asset. To the extent the certificate holder chooses to~~  
9 ~~accept the offer for an asset, it shall provide the authority with~~  
10 ~~the asset.~~

11 ~~(2) If the authority reimburses the original certificate holder~~  
12 ~~for the costs described in paragraph (1), the original certificate~~  
13 ~~holder shall provide the authority with all of the assets for which~~  
14 ~~the original certificate holder received reimbursement.~~

15 ~~(j)~~

16 ~~(h)~~ This section does not prevent a certificate holder from  
17 selling its license to construct and operate a project prior to its  
18 revocation by the commission. In the event of a sale to an entity  
19 that is not an affiliate of the certificate holder, the commission  
20 shall adopt new deadlines or milestones for the project that allow  
21 the new certificate holder up to 12 months to start construction of  
22 the project or to start to meet the applicable deadlines or  
23 milestones.

24 ~~(k)~~

25 ~~(i)~~ Paragraph (4) of subdivision (a) and subdivisions (c) to-~~(j)~~  
26 ~~(h)~~, inclusive, do not apply to licenses issued for the  
27 modernization, repowering, replacement, or refurbishment of  
28 existing facilities or to a qualifying small power production  
29 facility or a qualifying cogeneration facility within the meaning  
30 of Sections 201 and 210 of Title II of the federal Public Utility  
31 Regulatory Policies Act of 1978 (16 U.S.C. Secs. 796(17),  
32 796(18), and 824a-3), and the regulations adopted pursuant to  
33 those sections by the Federal Energy Regulatory Commission (18  
34 C.F.R. Parts 292.101 to 292.602, inclusive), nor shall those  
35 provisions apply to any other generation units installed, operated,  
36 and maintained at a customer site exclusively to serve that  
37 facility's load. For the purposes of this subdivision,  
38 "replacement" of an existing facility includes, but is not limited  
39 to, a comparable project at a location different than the facility  
40 being replaced, provided that the commission certifies that the



1 new project will result in the decommissioning of the existing  
2 facility.

3 ~~(f)~~

4 (j) Paragraph (4) of subdivision (a) and subdivisions (c) to ~~(f)~~  
5 (h), inclusive, do not apply to licenses issued to “local publicly  
6 owned electric utilities” as defined in subdivision (d) of Section  
7 9604 of the Public Utilities Code whose governing bodies certify  
8 to the commission that the project is needed to meet the projected  
9 native load of the local publicly owned utility.

10 ~~(m)~~

11 (k) To implement this section, the commission ~~and the~~  
12 ~~California Consumer Power and Conservation Financing~~  
13 ~~Authority may, in consultation with each other, adopt emergency~~  
14 regulations in accordance with Chapter 3.5 (commencing with  
15 Section 11340) of Part 1 of Division 3 of Title 2 of the  
16 Government Code. For purposes of that chapter, including,  
17 without limitation, Section 11349.6 of the Government Code, the  
18 adoption of the regulations shall be considered by the Office of  
19 Administrative Law to be necessary for the immediate  
20 preservation of the public peace, health and safety, or general  
21 welfare.

22 *SEC. 156. Section 25601 of the Public Resources Code is*  
23 *amended to read:*

24 25601. The ~~commission~~ department shall develop and  
25 coordinate a program of research and development in energy  
26 supply, consumption, and conservation and the technology of  
27 siting facilities and shall give priority to those forms of research  
28 and development which are of particular importance to the state,  
29 including, but not limited to, all of the following:

30 (a) Methods of energy conservation specified in Chapter 5  
31 (commencing with Section 25400).

32 (b) Increased energy use efficiencies of existing thermal  
33 electric and hydroelectric powerplants and increased energy  
34 efficiencies in designs of thermal electric and hydroelectric  
35 powerplants.

36 (c) Expansion and accelerated development of alternative  
37 sources of energy, including geothermal and solar resources,  
38 including, but not limited to, participation in large-scale  
39 demonstrations of alternative energy systems sited in California  
40 in cooperation with federal agencies, regional compacts, other



1 state governments, and other participants. For purposes of this  
 2 subdivision, "participation" shall be defined as any of the  
 3 following: (1) direct interest in a project, (2) research and  
 4 development to insure acceptable resolution of environment and  
 5 other impacts of alternative energy systems, (3) research and  
 6 development to improve siting and permitting methodology for  
 7 alternative energy systems, (4) experiments utilizing the  
 8 alternative energy systems, and (5) research and development of  
 9 appropriate methods to insure the widespread utilization of  
 10 economically useful alternative energy systems. Large-scale  
 11 demonstrations of alternative energy systems are exemplified by  
 12 the 100KW<sub>e</sub> to 100MW<sub>e</sub> range demonstrations of solar, wind,  
 13 and geothermal systems contemplated by federal agencies,  
 14 regional compacts, other state governments, and other  
 15 participants.

16 (d) Improved methods of construction, design, and operation  
 17 of facilities to protect against seismic hazards.

18 (e) Improved methods of energy-demand forecasting.

19 (f) To accomplish the purposes of subdivision (c), an amount  
 20 not more than one-half of the total state funds appropriated for  
 21 the solar energy research and development program as proposed  
 22 in the budget prepared pursuant to Section 25604 shall be  
 23 allocated for large-scale demonstration of alternative energy  
 24 systems.

25 *SEC. 157. Section 25602 of the Public Resources Code is*  
 26 *amended to read:*

27 25602. ~~The commission~~ *department* shall carry out technical  
 28 assessment studies on all forms of energy and energy-related  
 29 problems, in order to influence federal research and development  
 30 priorities and to be informed on future energy options and their  
 31 impacts, including, in addition to those problems specified in  
 32 Section 25601, but not limited to, the following:

33 (a) Advanced nuclear powerplant concepts, fusion, and fuel  
 34 cells.

35 (b) Total energy concepts.

36 (c) New technology related to coastal and offshore siting of  
 37 facilities.

38 (d) Expanded use of wastewater as cooling water and other  
 39 advances in powerplant cooling.



1 (e) Improved methods of power transmission to permit  
2 interstate and interregional transfer and exchange of bulk electric  
3 power.

4 (f) Measures to reduce wasteful and inefficient uses of energy.

5 (g) Shifts in transportation modes and changes in  
6 transportation technology in relation to implications for energy  
7 consumption.

8 (h) Methods of recycling, extraction, processing, fabricating,  
9 handling, or disposing of materials, especially materials which  
10 require large commitments of energy.

11 (i) Expanded recycling of materials and its effect on energy  
12 consumption.

13 (j) Implications of government subsidies and taxation and  
14 ratesetting policies.

15 (k) Utilization of waste heat.

16 (l) Use of hydrogen as an energy form.

17 (m) Use of agricultural products, municipal wastes, and  
18 organic refuse as an energy source.

19 Such assessments may also be conducted in order to determine  
20 which energy systems among competing technologies are most  
21 compatible with standards established pursuant to this division.

22 *SEC. 158. Section 25603 of the Public Resources Code is*  
23 *amended to read:*

24 25603. For research purposes, the ~~commission~~ *department*  
25 shall, in cooperation with other state agencies, participate in the  
26 design, construction, and operation of energy-conserving  
27 buildings using data developed pursuant to Section 25401, in  
28 order to demonstrate the economic and technical feasibility of  
29 ~~such~~ *the* designs.

30 *SEC. 159. Section 25603.5 of the Public Resources Code is*  
31 *amended to read:*

32 25603.5. (a) Pursuant to the duties of the ~~commission~~  
33 *department* described in subdivision (a) of Section 25401 and  
34 Section 25603, the ~~commission~~ *department* shall conduct a  
35 statewide architectural design competition to select outstanding  
36 designs for new single-family and multifamily residential units  
37 which incorporate passive solar and other energy-conserving  
38 design features.

39 The purpose of the competition, to be known as the "State  
40 Solar Medallion Passive Design Competition," is to demonstrate



1 the technical and economic feasibility of passive solar design for  
2 residential construction, to speed its commercialization, and to  
3 promote its use by developers in housing for moderate-income  
4 families in the state. The competition shall be carried out with the  
5 assistance and cooperation of the ~~Office~~ *Division* of the State  
6 Architect.

7 (b) The competition shall be conducted for each of the state's  
8 six regional climate zones. Each climate zone shall have the  
9 following four categories of competition:

10 (1) Single-family dwellings. The construction costs of these  
11 dwellings shall not exceed thirty-five thousand dollars (\$35,000)  
12 and the market price, inclusive of land, construction, permits,  
13 fees, overhead and profit shall not exceed fifty-five thousand  
14 dollars (\$55,000); provided that, if the ~~commission~~ *department*  
15 determines that, as of the date construction is completed, the cost  
16 of housing construction in this state has increased due to  
17 economic inflation since January 1, 1979, the ~~commission~~  
18 *department* may increase these sums by the amount of ~~such~~  
19 inflation as indicated by the construction cost index.

20 (2) Single-family dwellings. The construction costs of these  
21 dwellings shall not exceed fifty-five thousand dollars (\$55,000)  
22 and the market price, inclusive of land, construction, permits,  
23 fees, overhead and profit shall not exceed eighty-five thousand  
24 dollars (\$85,000); provided that, if the ~~commission~~ *department*  
25 determines that, as of the date construction is completed, the cost  
26 of housing construction in this state has increased due to  
27 economic inflation since January 1, 1979, the ~~commission~~  
28 *department* may increase these sums by the amount of ~~such~~  
29 inflation as indicated by the construction cost index.

30 (3) Multifamily housing units with a market price or rental  
31 value comparable to paragraph (1) of this subdivision.

32 (4) Multifamily housing units with a market price or rental  
33 value comparable to paragraph (2) of this subdivision.

34 (c) In order to qualify for the competition, entrants shall be a  
35 team composed of at least one member from each of the  
36 following categories:

37 (1) A building designer or architect.

38 (2) A builder, developer, or contractor.



(d) With submission of designs to the competition, all entrants shall agree to comply with the following provisions, if awarded the Solar Medallion or the first place prize in any category:

(1) To build five models of the winning design for single-family home categories if the builder, developer, or contractor member of the winning team constructed more than 30 single-family detached units during the one-year period ending on the date of the award, or

(2) To build three models of the winning design for single-family home categories if the builder, developer, or contractor member of the winning team constructed 30 or fewer single-family detached units during the one-year period ending on the date of the award, or

(3) To build one model of the winning design for all multifamily categories.

(4) To commence construction within 18 months of the announcement of awards.

(5) To permit the ~~commission~~ *department* to install monitoring equipment for measuring energy conservation performance of the structure on all models constructed in compliance with paragraphs (1), (2), and (3) of this subdivision.

(6) To permit the ~~commission~~ *department* to document, exhibit, and publicize the constructed designs.

All models of winning designs shall be built on the site or sites described in the submission or on an alternate site or sites with comparable features.

Cash awards to authors of the winning designs may be made prior to commencement of the agreed-upon construction.

All winning designs in the competition shall become the property of the state and may be published and exhibited by the state after completion of competition.

(e) The judging panel for the competition shall consist of the following five jurors:

(1) One representative of the ~~Office Division~~ of the State Architect.

(2) One representative of the ~~commission~~ *department*.

(3) One certificated architect.

(4) One representative of the state's lending institutions.

(5) One developer, builder, or contractor.



1 The nonagency members shall be appointed by the State  
2 Architect.

3 In recognition of the wide variation in construction costs  
4 statewide, and in order to ensure fair and equitable competition in  
5 all areas of the state, a cost index shall be used to determine  
6 different construction cost and market price requirements for  
7 each category of competition in the major metropolitan areas of  
8 the state. The construction cost and market price figures specified  
9 in paragraphs (1) and (2) of subdivision (b) shall be used as the  
10 upper limit values on which the index shall be based.  
11 Construction cost and market price figures reflecting the  
12 diversity in costs in different areas of the state shall be  
13 determined in relation to upper limit values specified in this  
14 section.

15 The cost index shall be prepared by the ~~Office~~ *Division* of the  
16 State Architect and shall be published in the competition  
17 program.

18 The evaluation shall take place in two stages, with an initial  
19 technical review by the ~~commission~~ *department* staff. The staff  
20 shall submit to the judging panel a rigorous technical assessment  
21 of the anticipated energy conservation performance of all  
22 submissions. Final selection shall be made by the judging panel.

23 Designs submitted to the competition shall be judged on the  
24 extent to which they satisfy the following criteria:

25 (1) Use of passive solar and other energy conserving design  
26 features.

27 (2) Amount of energy savings achieved by the design.

28 (3) Adaptability of the design to widespread use.

29 (f) The ~~commission~~ *department* shall be responsible for  
30 developing rules and procedures for the conduct of the  
31 competition and for the judging, which rules shall ensure  
32 anonymity of designs submitted prior to final awarding of prizes,  
33 shall ensure impartiality of the judging panel, and shall ensure  
34 uniform treatment of competitors.

35 In administering the competition, the ~~commission~~ *department*  
36 shall accomplish the following tasks:

37 (1) Preparation of a competition program, including  
38 climatological data for each of the six regional climate zones.

39 (2) Distribution of competition information and ongoing  
40 publicity.



1 (3) Development of rules and procedures for competitors and  
2 judges.

3 (4) Preparation of a summary document for the competition,  
4 including a portfolio of winning designs and followup publicity.

5 (5) Instrumentation of winning dwellings constructed in  
6 accordance with requirements of this section; instrumentation for  
7 measurement of energy conservation performance of the units  
8 and ongoing data collection shall be provided by the ~~commission~~  
9 *department* pursuant to Section 25607.

10 For purposes of administering the competition, the ~~commission~~  
11 *department* shall contract with the ~~Office Division~~ of the State  
12 Architect for materials and services that cannot be performed by  
13 its staff.

14 (g) Cash awards to authors of the winning designs shall be  
15 made on the following basis:

16 Using the criteria in subdivision (e) of this section, the judging  
17 panel shall select, as follows:

18 (1) The most outstanding design statewide selected from  
19 among the first place winners in either of two single-family  
20 categories in any of the six climate zones which shall receive the  
21 State Solar Medallion Award and five thousand dollars (\$5,000)  
22 in addition to the cash award specified in paragraph (3) of this  
23 subdivision.

24 (2) The most outstanding design statewide selected from  
25 among the first place winners in either of the two multifamily  
26 categories in any of the six climate zones which shall receive the  
27 State Solar Medallion Award and five thousand dollars (\$5,000)  
28 in addition to the cash award specified in paragraph (3) of this  
29 subdivision.

30 (3) The first place designs in each of the four competition  
31 categories within each of the six climate zones, which shall each  
32 receive a cash award of five thousand dollars (\$5,000).

33 (4) The second place designs in each of the four competition  
34 categories within each of the six climate zones, which shall each  
35 receive a cash award of two thousand dollars (\$2,000).

36 *SEC. 160. Section 25608 of the Public Resources Code is*  
37 *amended to read:*

38 25608. The ~~commission~~ *department* shall confer with  
39 officials of federal agencies, including the National Aeronautics  
40 and Space Administration, the National Institute of Standards and



1 Technology, the Department of Energy, and the Department of  
2 Housing and Urban Development, to coordinate the adoption of  
3 regulations pursuant to Sections 25603 and 25605.

4 *SEC. 161. Section 25610 of the Public Resources Code is*  
5 *amended to read:*

6 25610. For purposes of carrying out the provisions of this  
7 chapter, the ~~commission~~ department may contract with any  
8 person for materials and services that cannot be performed by its  
9 staff or other state agencies, and may apply for federal grants or  
10 any other funding.

11 *SEC. 162. Section 25616 of the Public Resources Code is*  
12 *amended to read:*

13 25616. (a) It is the intent of the Legislature to encourage  
14 local agencies to expeditiously review permit applications to site  
15 energy projects, and to encourage energy project developers to  
16 consider all cost-effective and environmentally superior  
17 alternatives that achieve their project objectives.

18 (b) Subject to the availability of funds appropriated therefor,  
19 the ~~commission~~ department shall provide technical assistance  
20 and grants-in-aid to assist local agencies to do either or both of  
21 the following:

22 (1) Site energy production or transmission projects which are  
23 not otherwise subject to the provisions of Chapter 6  
24 (commencing with Section 25500).

25 (2) Integrate into their planning processes, and incorporate  
26 into their general plans, methods to achieve cost-effective energy  
27 efficiency.

28 (c) The ~~commission~~ department shall provide assistance at the  
29 request of local agencies and shall coordinate that assistance with  
30 the assistance provided by the Department of Permit Assistance,  
31 created pursuant to Section 15399.50 of the Government Code.

32 (d) As used in this section, an energy project is any project  
33 designed to produce, convert, or transmit energy as one of its  
34 primary functions.

35 *SEC. 163. Section 25617 of the Public Resources Code is*  
36 *amended to read:*

37 25617. (a) It is the intent of the Legislature to preserve  
38 diversity of energy resources, including diversity of resources  
39 used in electric generation facilities, industrial and commercial  
40 applications, and transportation.



1 (b) The ~~commission~~ *department* shall, within the limits of  
2 available funds, provide technical assistance and support for the  
3 development of petroleum diesel fuels which are as clean or  
4 cleaner than alternative clean fuels and clean diesel engines. That  
5 technical assistance and support may include the creation of  
6 research, development, and demonstration programs.

7 *SEC. 164. Section 25618 of the Public Resources Code is*  
8 *amended to read:*

9 25618. (a) The ~~commission~~ *department* shall facilitate  
10 development and commercialization of ultralow- and  
11 zero-emission electric vehicles and advanced battery  
12 technologies, as well as development of an infrastructure to  
13 support maintenance and fueling of those vehicles in California.  
14 Facilitating commercialization of ultralow- and zero-emission  
15 electric vehicles in California shall include, but not be limited to,  
16 the following:

17 (1) The ~~commission~~ *department* may, in cooperation with  
18 county, regional, and city governments, the state's public and  
19 private utilities, and the private business sector, develop plans for  
20 accelerating the introduction and use of ultralow- and  
21 zero-emission electric vehicles throughout California's air  
22 quality nonattainment areas, and for accelerating the  
23 development and implementation of the necessary infrastructure  
24 to support the planned use of those vehicles in California. These  
25 plans shall be consistent with, but not limited to, the criteria for  
26 similar efforts contained in federal loan, grant, or matching fund  
27 projects.

28 (2) In coordination with other state agencies, the ~~commission~~  
29 *department* shall seek to maximize the state's use of federal  
30 programs, loans, and matching funds available to states for  
31 ultralow- and zero-emission electric vehicle development and  
32 demonstration programs, and infrastructure development  
33 projects.

34 (b) Priority for implementing demonstration projects under  
35 this section shall be directed toward those areas of the state  
36 currently in a nonattainment status with federal and state air  
37 quality regulations.

38 *SEC. 165. Section 25619 of the Public Resources Code is*  
39 *amended to read:*



25619. (a) The ~~commission~~ *department* shall develop a grant program to offset a portion of the cost of eligible solar energy systems. The goals of the program are all of the following:

(1) To make solar energy systems cost competitive with alternate forms of energy.

(2) To provide support for electricity storage capabilities in solar electric applications to facilitate enhanced reliability in the event of a power outage.

(3) To encourage the purchase by California residents of California-made solar systems.

(b) (1) The grant for an eligible solar energy system shall be based on either the performance of, or the type of, the solar energy system, as the ~~commission~~ *department* determines, and the amount of the grant shall not exceed seven hundred fifty dollars (\$750). Except as provided in paragraph (2), if a grant is awarded pursuant to this section for an eligible solar energy system that produces electricity, no grant shall be made for that system from any other grant program administered by the ~~commission~~ *department*.

(2) An applicant who receives a grant for a photovoltaic solar energy system from another program administered by the ~~commission~~ *department*, may also receive a grant for that system pursuant to this section, if all of the following conditions are met:

(A) The system will accomplish the purpose specified in paragraph (3) of subdivision (a).

(B) The system is an eligible solar energy system.

(C) The system includes adequate battery storage, as determined by the ~~commission~~ *department*.

(c) Purchasers, sellers, owner-builders, or owner-developers of the solar energy system may apply for a grant under this section. An owner-builder or owner-developer of a new single-family dwelling on which a system is installed may elect not to apply for a grant on a solar energy system installed on a new single-family dwelling. If an owner-builder or owner-developer of a new single-family dwelling on which a system is installed elects not to apply for the grant for a solar energy system, the purchaser of the dwelling may apply for the grant. The seller, owner-builder, or owner-developer shall reflect the amount of the grant received on the purchaser's bill of sale.



(d) The ~~commission~~ *department* shall develop and adopt guidelines to provide appropriate consumer protection under the grant program and to govern other aspects of the grant program. The guidelines shall be adopted at a publicly noticed meeting and all interested parties shall be provided an opportunity to comment either orally or in writing. Not less than 30 days notice shall be provided for the public meeting. Subsequent substantive changes to adopted guidelines shall be adopted by the ~~commission~~ *department* at a public meeting upon written notice to the public of not less than 10 days. The guidelines adopted pursuant to this subdivision are not subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

(e) The ~~commission~~ *department* shall require installers of solar energy systems funded through grants under this section to be properly licensed to do so by the Contractors' State License Board. This requirement does not apply to the owner of a single-family dwelling who installs a solar energy system on his or her single-family dwelling.

(f) The award of a grant pursuant to this section is subject to appeal to the ~~commission~~ *department* upon a showing that factors other than those described in the guidelines adopted by the ~~commission~~ *department* were applied in making the award. Any action taken by an applicant to apply for, or become or remain eligible to receive an award, including satisfying conditions specified by the ~~commission~~ *department*, does not constitute the rendering of goods, services, or a direct benefit to the ~~commission~~ *department*. Awards made pursuant to this section are not subject to any repayment requirements of Chapter 7.4 (commencing with Section 25645).

(g) For the purposes of this section, the following terms have the following meanings:

(1) "Cost" includes equipment, installation charges, and all components necessary to carry out the intended use of the system if those components are an integral part of the system. In the case of a system that is leased, "cost" means the principal recovery portion of all lease payments scheduled to be made during the full term of the lease, which is the cost incurred by the taxpayer in acquiring the solar energy system, excluding interest charges and maintenance expenses.



(2) (A) “Eligible solar energy system” means any new, previously unused solar energy device whose primary purpose is to provide for the collection, conversion, transfer, distribution, storage, or control of solar energy for water heating or electricity generation, and that meets applicable standards and requirements imposed by state and local permitting authorities, including, but not limited to, the National Electric Code. Eligible solar energy systems for water heating purposes shall be certified by the Solar Rating and Certification Corporation (SRCC) or any other nationally recognized certification agency that certifies complete systems. Major components of eligible solar energy systems for electricity generation shall be listed by a certified testing agency, such as the Underwriters Laboratory. In the absence of certification, major components of eligible solar energy systems for electricity generation shall comply with specifications adopted by the ~~commission~~ department.

(B) “Eligible solar energy system” does not include any of the following:

(i) Wind energy devices that produce electricity or provide mechanical work.

(ii) Additions to or augmentation of existing solar energy systems.

(iii) A device that produces electricity for a structure unless the device is interconnected and operates in parallel with the electric grid.

(C) Eligible solar energy systems shall have a warranty of not less than three years.

(3) “Installed” means placed in a functionally operative state.

(h) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

*SEC. 166. Section 25620 of the Public Resources Code is amended to read:*

25620. The Legislature hereby finds and declares all of the following:

(a) It is in the best interests of the people of this state that the quality of life of its citizens be improved by providing environmentally sound, safe, reliable, and affordable energy services and products.



1 (b) To improve the quality of life of this state's citizens, it is  
2 proper and appropriate for the state to undertake public interest  
3 energy research, development, and demonstration projects that  
4 are not adequately provided for by competitive and regulated  
5 energy markets.

6 (c) Public interest energy research, demonstration, and  
7 development projects should advance energy science or  
8 technologies of value to California citizens and should be  
9 consistent with the policies of Section 399.7 of the Public  
10 Utilities Code.

11 (d) The ~~commission~~ *department* should use its adopted  
12 "Five-Year Investment Plan, 2002 Through 2006 for the Public  
13 Interest Energy Research (PIER) Program (Volume 1)"  
14 (P600-01-004a, March 1, 2001) to ensure compliance with the  
15 policies and provisions of Section 399.7 of the Public Utilities  
16 Code in the administration of public interest energy research,  
17 demonstration, and development programs.

18 *SEC. 167. Section 25620.1 of the Public Resources Code is*  
19 *amended to read:*

20 25620.1. (a) The ~~commission~~ *department* shall develop,  
21 implement, and administer the Public Interest Research,  
22 Development, and Demonstration Program that is hereby created.  
23 The program shall include a full range of research, development,  
24 and demonstration activities that, as determined by the  
25 ~~commission~~ *department*, are not adequately provided for by  
26 competitive and regulated markets. The ~~commission~~ *department*  
27 shall administer the program consistent with the policies of  
28 Section 399.7 of the Public Utilities Code.

29 (b) The goal of the program is to provide public value for the  
30 benefit of California and its citizens through the development of  
31 technologies which will improve environmental quality, enhance  
32 system reliability, increase efficiency of energy-using  
33 technologies, lower system costs, or provide other tangible  
34 benefits.

35 (c) To achieve the goal established in subdivision (b), the  
36 ~~commission~~ *department* shall adopt a portfolio approach for the  
37 program that does all of the following:

38 (1) Effectively balances the risks, benefits, and time horizons  
39 for various activities and investments that will provide tangible  
40 benefits for California electricity ratepayers.



1 (2) Emphasizes innovative energy supply and end use  
2 technologies, focusing on their reliability, affordability, and  
3 environmental attributes.

4 (3) Includes projects that have the potential to enhance  
5 transmission and distribution capabilities.

6 (4) Includes projects that have the potential to enhance the  
7 reliability, peaking power, and storage capabilities of renewable  
8 energy.

9 (5) Demonstrates a balance of benefits to all sectors that  
10 contribute to the funding under Section 399.8 of the Public  
11 Utilities Code.

12 (6) Addresses key technical and scientific barriers.

13 (7) Demonstrates a balance between short-term, mid-term, and  
14 long-term potential.

15 (8) Ensures that prior, current, and future research not be  
16 unnecessarily duplicated.

17 (9) Provides for the future market utilization of projects  
18 funded through the program.

19 (d) The ~~commission~~ *department* shall review the portfolio  
20 adopted pursuant to subdivision (c) in accordance with the  
21 “Five-Year Investment Plan, 2002 Through 2006 for the Public  
22 Interest Energy Research (PIER) Program (Volume 1)”  
23 (P600-01-004a, March 1, 2001).

24 (e) The term “award,” as used in this chapter, may include, but  
25 is not limited to, contracts, grants, interagency agreements, loans,  
26 and other financial agreements designed to fund public interest  
27 research, demonstration, and development projects or programs.

28 *SEC. 168. Section 25620.2 of the Public Resources Code is*  
29 *amended to read:*

30 25620.2. (a) To ensure the efficient implementation and  
31 administration of the Public Interest Research, Development, and  
32 Demonstration Program, the ~~commission~~ *department* shall do  
33 both of the following:

34 (1) Develop procedures for the solicitation of award  
35 applications for project or program funding, and to ensure  
36 efficient program management.

37 (2) Evaluate and select programs and projects, based on merit,  
38 that will be funded under the program.



1 (b) The ~~commission~~ *department* shall adopt regulations to  
2 implement the program, in accordance with the following  
3 procedures:

4 (1) Prepare a preliminary text of the proposed regulation and  
5 provide a copy of the preliminary text to any person requesting a  
6 copy.

7 (2) Provide public notice of the proposed regulation to any  
8 person who has requested notice of the regulations prepared by  
9 the ~~commission~~ *department*. The notice shall contain all of the  
10 following:

11 (A) A clear overview explaining the proposed regulation.

12 (B) Instructions on how to obtain a copy of the proposed  
13 regulations.

14 (C) A statement that if a public hearing is not scheduled for  
15 the purpose of reviewing a proposed regulation, any person may  
16 request, not later than 15 days prior to the close of the written  
17 comment period, a public hearing conducted in accordance with  
18 ~~commission~~ *departmental* procedures.

19 (3) Accept written public comments for 30 calendar days after  
20 providing the notice required in paragraph (2).

21 (4) Certify that all written comments were read and considered  
22 by the ~~commission~~ *department*.

23 (5) Place all written comments in a record that includes copies  
24 of any written factual support used in developing the proposed  
25 regulation, including written reports and copies of any transcripts  
26 or minutes in connection with any public hearings on the  
27 adoption of the regulation. The record shall be open to public  
28 inspection and available to the courts.

29 (6) Provide public notice of any substantial revision of the  
30 proposed regulation at least 15 days prior to the expiration of the  
31 deadline for public comments and comment period using the  
32 procedures provided in paragraph (2).

33 (7) Conduct public hearings, if a hearing is requested by an  
34 interested party, that shall be conducted in accordance with  
35 ~~commission~~ *departmental* procedures.

36 (8) Adopt any proposed regulation at a ~~regularly scheduled~~  
37 ~~and~~ noticed meeting of the ~~commission~~ *department*. The  
38 regulation shall become effective immediately unless otherwise  
39 provided by the ~~commission~~ *department*.



1 (9) Publish any adopted regulation in a manner that makes  
2 copies of the regulation easily available to the public. Any  
3 adopted regulation shall also be made available on the Internet.  
4 The ~~commission~~ department shall transmit a copy of an adopted  
5 regulation to the Office of Administrative Law for publication,  
6 or, if the ~~commission~~ department determines that printing the  
7 regulation is impractical, an appropriate reference as to where a  
8 copy of the regulation may be obtained.

9 (10) Notwithstanding any other provision of law, this  
10 subdivision provides an interim exception from the requirements  
11 of Chapter 3.5 (commencing with Section 11340) of Part 1 of  
12 Division 3 of Title 2 of the Government Code for regulations  
13 required to implement Sections 25620.1 and 25620.2 that are  
14 adopted under the procedures specified in this subdivision.

15 (11) This subdivision shall become inoperative on January 1,  
16 2007, unless a later enacted statute deletes or extends that date.  
17 However, after January 1, 2007, the ~~commission~~ department is  
18 not required to repeat any procedural step in adopting a  
19 regulation that has been completed before January 1, 2007, using  
20 the procedures specified in this subdivision.

21 *SEC. 169. Section 25620.3 of the Public Resources Code is*  
22 *amended to read:*

23 25620.3. (a) The ~~commission~~ department may, consistent  
24 with the requirements of this chapter, provide awards to any  
25 individual or entity for planning, implementation, and  
26 administration of projects or programs selected pursuant to  
27 Section 25620.5.

28 (b) The ~~commission~~ department may provide an award to a  
29 project or program that includes a group of related projects, or to  
30 a party who aggregates projects that directly benefit from the  
31 award.

32 (c) The ~~commission~~ department may establish multiparty  
33 agreements. In a multiparty agreement, the ~~commission~~  
34 department may be a signatory to a common agreement among  
35 two or more parties. These agreements include, but are not  
36 limited to, cofunding, leveraged research, collaborations, and  
37 membership arrangements. If the ~~commission~~ department enters  
38 into these agreements, it shall be a party to these agreements and  
39 may share in the roles, responsibilities, risks, investments, and  
40 results.



1 (d) The ~~commission~~ department may issue awards that include  
2 the ability to make advance payments to prime contractors, to  
3 enable them to make advance payments to a subcontractor that is  
4 a federal agency, national laboratory, or state entity, on the  
5 condition that the subcontract is binding and enforceable and  
6 includes specific performance milestones.

7 (e) The ~~commission~~ department may issue awards that include  
8 the ability to assign tasks on a work authorization basis.

9 (f) Prior to making any award pursuant to this chapter for a  
10 research, development, or demonstration program or project, the  
11 ~~commission~~ department shall identify the expected costs and any  
12 qualitative or quantitative benefits of the proposed program or  
13 project.

14 *SEC. 170. Section 25620.4 of the Public Resources Code is*  
15 *amended to read:*

16 25620.4. (a) To the extent that intellectual property is  
17 developed under this chapter, an equitable share of rights in the  
18 intellectual property or in the benefits derived therefrom shall  
19 accrue to the State of California.

20 (b) The ~~commission~~ department may determine what share, if  
21 any, of the intellectual property, or the benefits derived  
22 therefrom, shall accrue to the state. The ~~commission~~ department  
23 may negotiate sharing mechanisms for intellectual property or  
24 benefits with award recipients.

25 *SEC. 171. Section 25620.5 of the Public Resources Code is*  
26 *amended to read:*

27 25620.5. (a) The ~~commission~~ department may solicit  
28 applications for awards, using a sealed competitive bid,  
29 competitive negotiation process, ~~commission-issued~~  
30 *department-issued* intradepartmental master agreement, the  
31 methods for selection of professional services firms set forth in  
32 Chapter 10 (commencing with Section 4525) of Division 5 of  
33 Title 1 of the Government Code, interagency agreement, single  
34 source, or sole source method. When scoring teams are convened  
35 to review and score proposals, the scoring teams may include  
36 persons not employed by the ~~commission~~ department, as long as  
37 employees of the state constitute no less than 50 percent of the  
38 membership of the scoring team. A person participating on a  
39 scoring team may not have any conflict of interest with respect to  
40 the proposal before the scoring team.



1 (b) A sealed bid method may be used when goods and services  
2 to be acquired can be described with sufficient specificity so that  
3 bids can be evaluated against specifications and criteria set forth  
4 in the solicitation for bids.

5 (c) The ~~commission~~ *department* may use a competitive  
6 negotiation process in any of the following circumstances:

7 (1) Whenever the desired award is not for a fixed price.

8 (2) Whenever project specifications cannot be drafted in  
9 sufficient detail so as to be applicable to a sealed competitive bid.

10 (3) Whenever there is a need to compare the different price,  
11 quality, and structural factors of the bids submitted.

12 (4) Whenever there is a need to afford bidders an opportunity  
13 to revise their proposals.

14 (5) Whenever oral or written discussions with bidders  
15 concerning the technical and price aspects of their proposals will  
16 provide better results to the state.

17 (6) Whenever the price of the award is not the determining  
18 factor.

19 (d) The ~~commission~~ *department* may establish interagency  
20 agreements.

21 (e) The ~~commission~~ *department* may provide awards on a  
22 single source basis by choosing from among two or more parties  
23 or by soliciting multiple applications from parties capable of  
24 supplying or providing similar goods or services. The cost to the  
25 state shall be reasonable and the ~~commission~~ *department* may  
26 only enter into a single source agreement with a particular party  
27 if the ~~commission~~ *department* determines that it is in the state's  
28 best interests.

29 (f) The ~~commission~~ *department*, in accordance with  
30 subdivision (g) and in consultation with the Department of  
31 General Services, may provide awards on a sole source basis  
32 when the cost to the state is reasonable and the ~~commission~~  
33 *department* makes any of the following determinations:

34 (1) The proposal was unsolicited and meets the evaluation  
35 criteria of this chapter.

36 (2) The expertise, service, or product is unique.

37 (3) A competitive solicitation would frustrate obtaining  
38 necessary information, goods, or services in a timely manner.

39 (4) The award funds the next phase of a multiphased proposal  
40 and the existing agreement is being satisfactorily performed.



1 (5) When it is determined by the ~~commission~~ *department* to be  
2 in the best interests of the state.

3 (g) The ~~commission~~ *department* may not use a sole source  
4 basis for an award pursuant to subdivision (f), unless both of the  
5 following conditions are met:

6 (1) The ~~commission~~ *department*, at least 30 days prior to  
7 taking an action pursuant to subdivision (f), notifies the Joint  
8 Legislative Budget Committee, in writing, of its intent to take the  
9 proposed action.

10 (2) The Joint Legislative Budget Committee either approves or  
11 does not disapprove the proposed action within 30 days from the  
12 date of notification required by paragraph (1).

13 (h) The provisions of this section are severable. If any  
14 provision of this section or its application is held to be invalid,  
15 that invalidity does not affect other provisions or applications  
16 that can be given effect without the invalid provision or  
17 application.

18 *SEC. 172. Section 25620.6 of the Public Resources Code is*  
19 *amended to read:*

20 25620.6. The ~~commission~~ *department*, in consultation with  
21 the Department of General Services, may purchase insurance  
22 coverage necessary to implement an award. Funding for the  
23 purchase of insurance may be made from money in the Public  
24 Interest Research, Development, and Demonstration Fund  
25 created pursuant to Section 384 of the Public Utilities Code.

26 *SEC. 173. Section 25620.7 of the Public Resources Code is*  
27 *amended to read:*

28 25620.7. (a) The ~~commission~~ *department* may contract for,  
29 or through interagency agreement obtain, technical, scientific, or  
30 administrative services or expertise from one or more entities, to  
31 support the program. Funding for this purpose shall be made  
32 from money in the Public Interest Research, Development, and  
33 Demonstration Fund.

34 (b) The ~~commission~~ *department* may select the services or  
35 expertise described in subdivision (a), pursuant to Section  
36 25620.5. In the event that contracts or interagency agreements  
37 have been made to multiple entities and their subcontractors for  
38 similar purposes, the ~~commission~~ *department* may select from  
39 among those entities the particular expertise needed for a  
40 specified type of work. Selection of the particular expertise may



1 be based solely on a review of qualifications, including the  
2 specific expertise required, availability of the expertise, or access  
3 to a resource of special relevance to the work, including, but not  
4 limited to, a database, model, technical facility, or a collaborative  
5 or institutional affiliation that will expedite the quality and  
6 performance of the work.

7 *SEC. 174. Section 25620.8 of the Public Resources Code is*  
8 *amended to read:*

9 25620.8. The ~~commission~~ department shall prepare and  
10 submit to the Legislature an annual report, not later than March  
11 31 of each year, on awards made pursuant to this chapter. The  
12 report shall include information on the names of award  
13 recipients, the amount of awards, and the types of projects  
14 funded, an evaluation of the success of any funded projects, and  
15 any recommendations for improvements in the program. The  
16 report shall set forth the actual costs of programs or projects  
17 funded by the ~~commission~~ department, the results achieved, and  
18 how the actual costs and results compare to the expected costs  
19 and benefits. The ~~commission~~ department shall establish  
20 procedures for protecting confidential or proprietary information  
21 and shall consult with all interested parties in the preparation of  
22 the annual report.

23 *SEC. 175. Section 25620.9 of the Public Resources Code is*  
24 *amended to read:*

25 25620.9. (a) Not later than three months after the enactment  
26 of this section, the ~~commission~~ department shall designate a  
27 panel of independent experts with special expertise in public  
28 interest research, development, and demonstration programs. In  
29 order to ensure continuity in the evaluation of the public interest  
30 energy research, demonstration, and development projects, the  
31 ~~commission~~ department, when practicable, shall select experts  
32 that served on prior independent review panels. The panel shall  
33 conduct a comprehensive evaluation of the program established  
34 pursuant to this chapter. The evaluation shall include a review of  
35 the public value of programs established pursuant to this chapter,  
36 including, but not limited to, the monetary and nonmonetary  
37 benefits to public health and the environment, and the benefit of  
38 providing funds for technology development that would  
39 otherwise not be funded.



(b) Not later than 15 months after the enactment of this section, the panel designated pursuant to subdivision (a) shall submit a preliminary report to the Governor and to the Legislature on its findings and recommendations on the implementation of the program established pursuant to this chapter. The panel, not later than 30 months after the enactment of this section, shall submit a final report to the Governor and to the Legislature, including any additional findings and recommendations regarding implementation of the program.

(c) This section shall remain in effect only until July 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

*SEC. 176. Section 25620.10 of the Public Resources Code is amended to read:*

25620.10. (a) The ~~commission~~ department shall develop and implement a grant program to offset a portion of the costs of eligible distributed generation systems.

(b) A grant for an eligible distributed generation system shall be based on either the performance or type of distributed generation system, as determined by the ~~commission~~ department. The amount of the grant shall not exceed the lesser of 10 percent of the costs of the eligible distributed generation system or two thousand dollars (\$2,000).

(c) An applicant who receives a grant for an eligible distributed generation system from another program administered by the ~~commission~~ department may also receive a grant for that system pursuant to this section if the system possesses adequate black-start capability, as determined by the ~~commission~~ department.

(d) Purchasers, sellers, owner-builders, or owner-developers of the eligible distributed generation system may apply for a grant under this section. If the owner-developer or owner-builder of the property on which a system is installed elects to not apply for a grant under this section, the purchaser of the property may apply for the grant. The seller, owner-builder, or owner-developer shall reflect the amount of the grant received on the purchaser's bill of sale.

(e) The ~~commission~~ department shall develop and adopt guidelines to provide appropriate consumer protection under the grant program and to govern other aspects of the grant program,



which shall be made available to the public. Not less than 30 days' notice shall be provided for a public meeting to adopt the guidelines. Public meetings to adopt subsequent substantive guideline changes require written public notice of not less than 10 days. The guidelines adopted pursuant to this subdivision are not subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) ~~The commission~~ *department* shall require installers of eligible distributed generation systems funded through grants under this section to be properly licensed to do so by the Contractors' State License Board.

(g) The award of a grant pursuant to this section is subject to appeal to the ~~commission~~ *department* upon a showing that factors other than those adopted by the ~~commission~~ *department* were applied in making the award. Any action taken by an applicant to apply for, or become or remain eligible to receive a grant award, including satisfying conditions specified by the ~~commission~~ *department*, does not constitute the rendering of goods, services, or a direct benefit to the ~~commission~~ *department*. Awards made pursuant to this section are not subject to any repayment requirements of Chapter 7.4 (commencing with Section 25645).

(h) Eligible distributed generation systems shall have a warranty of not less than three years.

(i) For purposes of this section, the following terms have the following meanings:

(1) "Black-start capability" means the capability to provide electricity to the customer in the event of an outage.

(2) "Cost" includes equipment, installation charges and all components necessary to carry out the intended use of the system if those components are an integral part of the system. In the case of a system that is leased, "cost" means the principal recovery portion of all lease payments scheduled to be made during the full term of the lease, which is the costs incurred by the customer in acquiring the distributed generation system, excluding interest charges and maintenance expenses.

(3) "Distributed generation" means any onsite generation, interconnected and operating in parallel with the electricity grid, that is used solely to meet onsite electric load.



(4) “Eligible distributed generation system” means any new, previously unused distributed generation system, interconnected and operating in parallel with the electricity grid, certified by the ~~commission~~ department to provide environmental and system reliability benefits equal to or greater than the following specifications:

(A) Forty percent total fuel-to-energy conversion efficiency for any nonrenewable fuel system.

(B) Thirty-five percent total fuel-to-energy conversion efficiency for any renewable fuel system.

(C) Emission of oxides of nitrogen and any other applicable criteria pollutants that equal or exceed Best Achievable Control Technology (BACT) for natural gas fired central station powerplants. The State Air Resources Board shall, in consultation with the ~~commission~~ department, prepare and update specifications for those emissions and other applicable criteria pollutants.

(D) Ninety percent total system reliability.

(5) Potentially certifiable technologies include all of the following:

(A) Microcogeneration.

(B) Gas turbines.

(C) Fuel cells.

(D) Electricity storage technologies in systems not eligible for grants under Section 25619.

(E) Reciprocating internal combustion engines.

(6) “Installed” means placed in a functionally operative state.

(j) This section shall remain in effect only until January 1, 2006, and as of that date is repealed unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

*SEC. 177. Section 25620.11 of the Public Resources Code is amended to read:*

25620.11. The ~~commission~~ department shall regularly convene an advisory board that shall make recommendations to guide the ~~commission's~~ department's selection of programs and projects to be funded under this chapter. The advisory board shall include as appropriate, but not be limited to, representatives from the Public Utilities Commission, consumer organizations, environmental organizations, and electrical corporations subject



1 to the funding requirements of Section 381 of the Public Utilities  
2 Code.

3 *SEC. 178. Section 25630 of the Public Resources Code is*  
4 *amended to read:*

5 25630. (a) ~~The commission~~ department shall establish a  
6 small business energy assistance low-interest revolving loan  
7 program to fund the purchase of equipment for alternative  
8 technology energy projects for California's small businesses.

9 (b) Loan repayments, interest, and royalties shall be deposited  
10 in the Energy Technologies Research, Development, and  
11 Demonstration Account. The interest rate shall be based on  
12 surveys of existing financial markets and at rates not lower than  
13 the Pooled Money Investment Account.

14 *SEC. 179. Section 25678 of the Public Resources Code is*  
15 *amended to read:*

16 25678. ~~The commission~~ department shall establish a grant  
17 program which provides a forty cent (\$0.40) per gallon  
18 production incentive for liquid fuels fermented in this state from  
19 biomass and biomass-derived resources produced in this state.  
20 Eligible liquid fuels include, but are not limited to, ethanol,  
21 methanol, and vegetable oils. Eligible biomass resources include,  
22 but are not limited to, agricultural products and byproducts,  
23 forestry products and byproducts, and industrial wastes. The  
24 ~~commission~~ department shall adopt rules and regulations  
25 necessary to implement the program. Prior to determining an  
26 applicant eligible for participation in the production incentive  
27 program, ~~the commission~~ department shall find, among other  
28 things, that the production techniques employed will lead to a net  
29 increase in the amount of energy available for consumption.

30 *SEC. 180. Section 25679 of the Public Resources Code is*  
31 *amended to read:*

32 25679. Applicants for a grant under this chapter shall submit  
33 an application on a form prescribed by ~~the commission~~  
34 department which is responsible for administration of the  
35 program.

36 *SEC. 181. Section 25696 of the Public Resources Code is*  
37 *amended to read:*

38 25696. ~~The commission~~ department may assist  
39 California-based energy technology and energy conservation



1 firms to export their technologies, products, and services to  
2 international markets.

3 The ~~commission~~ department may do all of the following:

4 (a) Conduct a technical assistance program to help California  
5 energy companies improve export opportunities and enhance  
6 foreign buyers' awareness of and access to energy technologies  
7 and services offered by California-based companies. Technical  
8 assistance activities may include, but are not limited to, an  
9 energy technology export information clearinghouse, a referral  
10 service, a trade lead service consulting services for financing,  
11 market evaluation, and legal counseling, and information  
12 seminars.

13 (b) Perform research studies and solicit technical advice to  
14 identify international market opportunities.

15 (c) Assist California energy companies to evaluate project or  
16 site-specific energy needs of international markets.

17 (d) Assist California energy companies to identify and address  
18 international trade barriers restricting energy technology exports,  
19 including unfair trade practices and discriminatory trade laws.

20 (e) Develop promotional materials in conjunction with  
21 California energy companies to expand energy technology  
22 exports.

23 (f) Establish technical exchange programs to increase foreign  
24 buyers' awareness of suitable energy technology uses.

25 (g) Prepare equipment performance information to enhance  
26 potential export opportunities.

27 (h) Coordinate activities with state, federal, and international  
28 donor agencies to take advantage of trade promotion and  
29 financial assistance efforts offered.

30 *SEC. 182. Section 25696.5 of the Public Resources Code is*  
31 *amended to read:*

32 25696.5. (a) Every California-based energy technology and  
33 energy conservation firm awarded direct financial assistance  
34 pursuant to Section 25696 shall reimburse the ~~commission~~  
35 department for that assistance, when both of the following  
36 conditions have been met:

37 (1) The assistance was substantial and essential for the  
38 completion of a specific identifiable project.

39 (2) The resulting project is producing revenues.



(b) All moneys appropriated for purposes of this chapter and all moneys received by the ~~commission~~ department as reimbursement under this section shall be deposited in the Energy Resources Programs Account and shall be available, when appropriated by the Legislature, for the purposes of this chapter.

*SEC. 183. Section 25697 of the Public Resources Code is amended to read:*

25697. The ~~commission~~ department shall consult with the California State World Trade Commission with respect to conducting overseas trade missions, trade shows, and trade exhibits. Consultation may include interagency agreements, cosponsorship, and memoranda of understanding for joint overseas trade activities.

*SEC. 184. Section 25700 of the Public Resources Code is amended to read:*

25700. The ~~commission~~ department shall, in accordance with the provisions of this chapter, develop contingency plans to deal with possible shortages of electrical energy or fuel supplies to protect public health, safety, and welfare.

*SEC. 185. Section 25701 of the Public Resources Code is amended to read:*

25701. (a) Within six months after the effective date of this division, each electric utility, gas utility, and fuel wholesaler or manufacturer in the state shall prepare and submit to the ~~commission~~ department a proposed emergency load curtailment plan or emergency energy supply distribution plan setting forth proposals for identifying priority loads or users in the event of a sudden and serious shortage of fuels or interruption in the generation of electricity.

(b) The ~~commission~~ department shall encourage electric utilities to cooperate in joint preparation of an emergency load curtailment plan or emergency energy distribution plan. If ~~such~~ a cooperative plan is developed between two or more electric utilities, ~~such~~ the utilities may submit ~~such~~ the joint plans to the ~~commission~~ department in place of individual plans required by subdivision (a) of this section.

(c) The ~~commission~~ department shall collect from all relevant governmental agencies, including, but not limited to, the Public Utilities Commission and the Office of Emergency Services, any



1 existing contingency plans for dealing with sudden energy  
2 shortages or information related thereto.

3 *SEC. 186. Section 25702 of the Public Resources Code is*  
4 *amended to read:*

5 25702. The ~~commission~~ department shall, after one or more  
6 public hearings, review the emergency load curtailment program  
7 plans or emergency energy supply distribution plans submitted  
8 pursuant to Section 25701, and, within one year after the  
9 effective date of this division, the ~~commission~~ department shall  
10 approve and recommend to the Governor and the Legislature  
11 plans for emergency load curtailment and energy supply  
12 distribution in the event of a sudden energy shortage. ~~Such~~ The  
13 plans shall be based upon the plans presented by the electric  
14 utilities, gas utilities, and fuel wholesalers or manufacturers,  
15 information provided by other governmental agencies,  
16 independent analysis and study by the ~~commission~~ department  
17 and information provided at the hearing or hearings. ~~Such~~ The  
18 plans shall provide for the provision of essential services, the  
19 protection of public health, safety, and welfare, and the  
20 maintenance of a sound basic state economy. Provision shall be  
21 made in ~~such~~ the plans to eliminate wasteful, uneconomic, and  
22 unnecessary uses of energy in times of shortages and to  
23 differentiate curtailment of energy consumption by users on the  
24 basis of ability to accommodate ~~such~~ curtailments. ~~Such~~ The  
25 plans shall also specify the authority of and recommend the  
26 appropriate actions of state and local governmental agencies in  
27 dealing with energy shortages.

28 *SEC. 187. Section 25703 of the Public Resources Code is*  
29 *amended to read:*

30 25703. Within four months after the date of certification of  
31 any new facility, the ~~commission~~ department shall review and  
32 revise the recommended plans based on additional new capacity  
33 attributed to ~~any~~ ~~such~~ the new facility. The ~~commission~~  
34 department shall, after one or more public hearings, review the  
35 plans at least every five years from the approval of the initial  
36 plan as specified in Section 25702.

37 *SEC. 188. Section 25704 of the Public Resources Code is*  
38 *amended to read:*

39 25704. The ~~commission~~ department shall carry out studies to  
40 determine if potential serious shortages of electrical, natural gas,



or other sources of energy are likely to occur and shall make recommendations to the Governor and the Legislature concerning administrative and legislative actions required to avert possible energy supply emergencies or serious fuel shortages, including, but not limited to, energy conservation and energy development measures, to grant authority to specific governmental agencies or officers to take actions in the event of a sudden energy shortage, and to clarify and coordinate existing responsibilities for energy emergency actions.

*SEC. 189. Section 25705 of the Public Resources Code is amended to read:*

25705. If the ~~commission~~ department determines that all reasonable conservation, allocation, and service restriction measures may not alleviate an energy supply emergency, and upon a declaration by the Governor or by an act of the Legislature that a threat to public health, safety, and welfare exists and requires immediate action, the ~~commission~~ department shall authorize the construction and use of generating facilities under ~~such~~ those terms and conditions ~~as~~ specified by the ~~commission~~ department to protect the public interest.

Within 60 days after the authorization of construction and use of ~~such~~ these generating facilities, the ~~commission~~ department shall issue a report detailing the full nature, extent, and estimated duration of the emergency situation and making recommendations to the Governor and the Legislature for further energy conservation and energy supply measures to alleviate the emergency situation as alternatives to use of ~~such~~ the generating facilities.

*SEC. 190. Section 25720 of the Public Resources Code is amended to read:*

25720. (a) By January 31, 2002, the ~~commission~~ department shall examine the feasibility, including possible costs and benefits to consumers and impacts on fuel prices for the general public, of operating a strategic fuel reserve to insulate California consumers and businesses from substantial short-term price increases arising from refinery outages and other similar supply interruptions. In evaluating the potential operation of a strategic fuel reserve, the ~~commission~~ department shall consult with other state agencies, including, but not limited to, the State Air Resources Board.



1 (b) The ~~commission~~ *department* shall examine and  
2 recommend an appropriate level of reserves of fuel, but in no  
3 event may the reserve be less than the amount of refined fuel that  
4 the ~~commission~~ *department* estimates could be produced by the  
5 largest California refiner over a two week period. In making this  
6 examination and recommendation, the ~~commission~~ *department*  
7 shall take into account all of the following:

8 (1) Inventories of California-quality fuels or fuel components  
9 reasonably available to the California market.

10 (2) Current and historic levels of inventory of fuels.

11 (3) The availability and cost of storage of fuels.

12 (4) The potential for future supply interruptions, price spikes,  
13 and the costs thereof to California consumers and businesses.

14 (c) The ~~commission~~ *department* shall evaluate a mechanism to  
15 release fuel from the reserve that permits any customer to  
16 contract at any time for the delivery of fuel from the reserve in  
17 exchange for an equal amount of fuel that meets California  
18 specifications and is produced from a source outside of  
19 California that the customer agrees to deliver back to the reserve  
20 within a time period to be established by the ~~commission~~  
21 *department*, but not longer than six weeks.

22 (d) The ~~commission~~ *department* shall evaluate reserve storage  
23 space from existing facilities.

24 (e) The ~~commission~~ *department* shall evaluate a reserve  
25 operated by an independent operator that specializes in  
26 purchasing and storing fuel, and is selected through competitive  
27 bidding.

28 (f) (1) Not later than January 31, 2002, the ~~commission~~  
29 *department* and the State Air Resources Board, in consultation  
30 with the other state and local agencies the ~~commission~~  
31 *department* deems necessary, shall develop and adopt  
32 recommendations for the Governor and Legislature on a  
33 California Strategy to Reduce Petroleum Dependence.

34 (2) The strategy shall include a base case forecast by the  
35 ~~commission~~ *department* of gasoline, diesel, and petroleum  
36 consumption in years 2010 and 2020 based on current best  
37 estimates of economic and population growth, petroleum base  
38 fuel supply and availability, vehicle efficiency, and utilization of  
39 alternative fuels and advanced transportation technologies.



1 (3) The strategy shall include recommended statewide goals  
2 for reductions in the rate of growth of gasoline and diesel fuel  
3 consumption and increased transportation energy efficiency and  
4 utilization of nonpetroleum based fuels and advanced  
5 transportation technologies, including alternative fueled vehicles,  
6 hybrid vehicles, and high fuel efficiency vehicles.

7 (g) The studies required by this section shall be conducted in  
8 conjunction with any other studies required by acts enacted  
9 during the 2000 portion of the 1999–2000 Regular Session  
10 dealing with gasoline prices.

11 *SEC. 191. Section 25721 of the Public Resources Code is*  
12 *amended to read:*

13 25721. The ~~commission~~ department shall report its findings  
14 and recommendations to the Governor, the Legislature, and the  
15 Attorney General by January 31, 2002. If the ~~commission~~  
16 department finds that it would be feasible to operate a strategic  
17 gas reserve to insulate California consumers and businesses from  
18 substantial, short-term price increases arising from refinery  
19 outages or other similar supply interruptions, the ~~commission~~  
20 department shall request specific statutory authority and funding  
21 for establishment of a reserve.

22 *SEC. 192. Section 25722 of the Public Resources Code is*  
23 *amended to read:*

24 25722. (a) On or before January 31, 2003, the ~~commission~~  
25 department, the Department of General Services, and the State  
26 Air Resources Board, in consultation with any other state agency  
27 that the ~~commission~~ department, the ~~department~~ Department of  
28 General Services, and the state board deem necessary, shall  
29 develop and adopt fuel-efficiency specifications governing the  
30 purchase by the state of motor vehicles and replacement tires  
31 that, on an annual basis, will reduce petroleum consumption of  
32 the state vehicle fleet to the maximum extent practicable and  
33 ~~cost-effective~~ cost effective.

34 (b) In developing the specifications, the ~~commission~~  
35 department and the ~~department~~ Department of General Services,  
36 shall jointly conduct a study to examine state vehicle purchasing  
37 patterns, including the purchase of after market tires, and to  
38 analyze the costs and benefits of reducing the energy  
39 consumption of the state vehicle fleet by no less than 10 percent  
40 on or before January 1, 2005.



(c) The study shall include an analysis of all of the following topics:

(1) Use of alternative fuels.

(2) Use of fuel-efficient vehicles.

(3) Costs and benefits of decreasing the size of the state vehicle fleet.

(4) Reduction in vehicle trips and increase in use of alternative means of transportation.

(5) Improved vehicle maintenance.

(6) Costs and benefits of using fuel-efficient tires relative to using retreaded tires, as described in the Retreaded Tire Program (Chapter 7 (commencing with Section 42400) of Part 3 of Division 30 of the Public Resources Code).

(7) The costs and benefits of purchasing high-fuel efficiency gasoline vehicles, including hybrid electric vehicles, instead of flexible fuel vehicles.

(d) On or before January 31, 2003, and annually thereafter, the ~~commission department~~, the Department of General Services, and the State Air Resources Board, in consultation with any other state agency that the ~~commission department~~, the ~~department~~ *Department of General Services*, and the state board deem necessary, shall develop and adopt air pollution emission specifications governing the purchase by the state of passenger cars and light-duty trucks that meet or exceed California's Ultra-Low Emission Vehicle (ULEV) standards for exhaust emissions (13 Cal. Code Regs. 1960.1).

(e) If the study described in subdivision (b) determines that lower cost measures exist that deliver petroleum reductions equivalent to applicable federal requirements governing the state purchase of passenger cars and light-duty trucks, the state shall pursue a waiver from those federal requirements.

*SEC. 193. Section 25722.5 of the Public Resources Code is amended to read:*

25722.5. (a) On or before January 1, 2005, in order to achieve the policy objectives set forth in Sections 25000.5 and 25722, the Department of General Services, in consultation with the ~~commission department~~ and the State Air Resources Board, shall develop and adopt specifications and standards for all passenger cars and light-duty trucks that are purchased or leased on behalf of, or by, state offices, agencies, and departments.



1 Authorized emergency vehicles, as defined in Section 165 of the  
2 Vehicle Code, that are equipped with emergency lamps or lights  
3 described in Section 25252 of the Vehicle Code are exempt from  
4 the requirements of this section. The specifications and standards  
5 shall include the following:

6 (1) Minimum air pollution emission specifications that meet or  
7 exceed California's Ultra-Low Emission Vehicle II (ULEV II)  
8 standards for exhaust emissions (13 Cal. Code Regs. 1961).  
9 These specifications shall apply on January 1, 2006, for  
10 passenger cars and on January 1, 2010, for light-duty trucks.

11 (2) Notwithstanding any other provision of law, the utilization  
12 of procurement policies that enable the Department of General  
13 Services to accomplish the following:

14 (A) Evaluate and score emissions and fuel economy in  
15 addition to capital cost to enable the Department of General  
16 Services to choose the vehicle with the lowest life-cycle cost  
17 when awarding a state vehicle procurement contract.

18 (B) Maximize the purchase or lease of hybrid or "Best in  
19 Class" vehicles that are substantially more fuel efficient than the  
20 class average.

21 (C) Maximize the purchase or lease of available vehicles that  
22 meet or exceed California's Super Ultra-Low Emission Vehicle  
23 (SULEV) passenger car standards for exhaust emissions.

24 (3) In order to discourage the unnecessary purchase or leasing  
25 of a sport utility vehicle and a four-wheel drive truck, a  
26 requirement that each state office, agency, or department seeking  
27 to purchase or lease that vehicle, demonstrate to the satisfaction  
28 of the Director of General Services or to the entity that purchases  
29 or leases vehicles for that office, agency, or department, that the  
30 vehicle is required to perform an essential function of the office,  
31 agency, or department. If it is so demonstrated, priority  
32 consideration shall be given to the purchase or lease of an  
33 alternatively fueled or hybrid sports utility vehicle or four-wheel  
34 drive vehicle.

35 (b) On or before December 31, 2005, each state office, agency,  
36 and department shall review its vehicle fleet and, upon finding  
37 that it is fiscally prudent, cost-effective, or otherwise in the  
38 public interest to do so, shall dispose of nonessential sport utility  
39 vehicles and four-wheel drive trucks from its fleet and replace



1 these vehicles with more fuel efficient front-wheel drive  
2 passenger cars and trucks.

3 (c) To the maximum extent practicable, each state office,  
4 agency, and department that has bifuel natural gas and bifuel  
5 propane vehicles in its vehicle fleet shall use the respective  
6 alternative fuel in those vehicles.

7 (d) Commencing no later than January 1, 2005, the Director of  
8 General Services shall compile and maintain information on the  
9 nature of vehicles that are owned or leased by the state,  
10 including, but not limited to, all of the following:

11 (1) The number of passenger-type motor vehicles purchased or  
12 leased during the year, and the number owned or leased as of  
13 December 31 of each year.

14 (2) The number of sport utility vehicles and four-wheel drive  
15 trucks purchased or leased by the state during the year, and the  
16 number owned or leased as of December 31 of each year.

17 (3) The number of alternatively fueled vehicles and hybrid  
18 vehicles purchased or leased by the state during the year, and the  
19 total number owned or leased as of December 31 of each year.

20 (4) The justification provided for all sport utility vehicles and  
21 four-wheel drive trucks purchased or leased by the state and the  
22 specific office, department, or agency responsible for the  
23 purchase or lease.

24 (5) The number of sport utility vehicles and four-wheel drive  
25 trucks purchased or leased by the state during the year, and the  
26 number owned or leased as of December 31 of each year that are  
27 alternative fuel or hybrid vehicles.

28 (6) The number of light-duty trucks disposed under  
29 subdivision (b).

30 (7) The total dollars spent by the state on passenger-type  
31 vehicle purchases and leases, categorized by sport utility vehicle  
32 and nonsport utility vehicle, and within each of those categories,  
33 by alternative fuel, hybrid and other.

34 (e) Each state office, agency, and department shall cooperate  
35 with the Department of General Services data requests in order  
36 that the department may compile and maintain the information  
37 required in subdivision (d).

38 (f) As soon as practicable, the information compiled and  
39 maintained under subdivision (d) and a list of those state offices,  
40 agencies, and departments that are not in compliance with



subdivision (e) shall be made available to the public on the Department of General Services' Web site.

*SEC. 194. Section 25723 of the Public Resources Code is amended to read:*

25723. On or before January 31, 2003, the ~~commission~~ *department*, in consultation with any other state agency that the ~~commission~~ *department* deems necessary, shall develop and adopt recommendations for consideration by the Governor and the Legislature of a California State Fuel-Efficient Tire Program. The ~~commission~~ *department* shall make recommendations on all of the following items:

(a) Establishing a test procedure for measuring tire fuel efficiency.

(b) Development of a ~~data base~~ *database* of fuel efficiency of existing tires in order to establish an accurate baseline of tire efficiency.

(c) A rating system for tires that provides consumers with information on the fuel efficiency of individual tire models.

(d) A consumer-friendly system to disseminate tire fuel-efficiency information as broadly as possible. The ~~commission~~ *department* shall consider labeling, Web site listing, printed fuel economy guide booklets, and mandatory requirements for tire retailers to provide fuel-efficiency information.

(e) A study to determine the safety implications, if any, of different policies to promote fuel efficient replacement tires in the consumer market.

(f) A mandatory fuel-efficiency standard for all after market tires sold in California.

(g) Consumer incentive programs that would offer a rebate to purchasers of replacement tires that are more fuel efficient than the average replacement tire.

*SEC. 195. Section 25730 of the Public Resources Code is amended to read:*

25730. The ~~commission~~ *department*, in consultation with the State Air Resources Board, the Department of Forestry and Fire Protection, the Department of Transportation, the State Water Resources Control Board, the California Integrated Waste Management Board, and other state agencies with jurisdiction



1 over matters affecting climate change, shall do all of the  
2 following:

3 (a) On or before January 1, 2002, update the inventory of  
4 greenhouse gas emissions from all sources located in the state, as  
5 identified in the ~~commission's~~ *the predecessor State Energy*  
6 *Resources Conservation and Development Commission's* 1998  
7 report entitled, "Appendix A: Historical and Forecasted  
8 Greenhouse Gas Emissions Inventories for California."  
9 Information on natural sources of greenhouse gas emissions shall  
10 be included to the extent that information is available. The  
11 inventory shall include information that compares emissions  
12 from similar inventories prepared for the United States and other  
13 states or countries, and shall include information on relevant  
14 current and previous energy and air quality policies, activities,  
15 and greenhouse gas emissions reductions and trends since 1990,  
16 to the extent that information is available.

17 (b) Acquire and develop data and information on global  
18 climate change, and provide state, regional, and local agencies,  
19 utilities, business, industry, and other energy and economic  
20 sectors with information on the costs, technical feasibility, and  
21 demonstrated effectiveness of methods for reducing or mitigating  
22 the production of greenhouse gases from in-state sources,  
23 including net reductions through the management of natural  
24 forest reservoirs. The ~~commission~~ *department*, in consultation  
25 with the State Air Resources Board, shall provide a variety of  
26 forums for the exchange of that information among interested  
27 parties, and shall provide other state agencies with information  
28 on cost-effective and technologically feasible methods that can  
29 be used to reduce or mitigate the emissions of greenhouse gases.

30 (c) Update its inventory every five years using current  
31 scientific methods, and report on the updated inventory to the  
32 Governor and the Legislature.

33 (d) Conduct at least one public workshop prior to finalizing  
34 each updated inventory. The ~~commission~~ *department* shall post  
35 its report and inventory on the ~~commission's department's~~ web  
36 page on the Internet.

37 (e) Convene an interagency task force consisting of state  
38 agencies with jurisdiction over matters affecting climate change  
39 to ensure policy coordination at the state level for those activities.



(f) Establish a climate change advisory committee, to the extent that the ~~commission~~ *department* determines that it can do so within existing resources. This advisory committee shall make recommendations to the ~~commission~~ *department* on the most equitable and efficient ways to implement international and national climate change requirements based on cost, technical feasibility, and relevant information on current energy and air quality policies and activities and on greenhouse gas emissions reductions and trends since 1990. The ~~commission~~ *secretary* shall ~~designate one of its commissioners~~ *be designated as the* chair, and ~~the committee~~ shall include ~~on the advisory committee~~ members who represent business, including major industrial and energy sectors, utilities, forestry, agriculture, local government, and environmental groups. The meetings of the advisory committee shall be open to the public, and shall provide an opportunity for the public to be heard on matters considered by the advisory committee.

*SEC. 196. Section 25741 of the Public Resources Code is amended to read:*

25741. As used in this chapter, the following terms have the following meaning:

(a) “In-state renewable electricity generation facility” means a facility that meets all of the following criteria:

(1) The facility uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

(2) The facility is located in the state or near the border of the state with the first point of connection to the Western Electricity Coordinating Council (WECC) transmission system located within this state.

(3) For the purposes of this subdivision, “solid waste conversion” means a technology that uses a noncombustion thermal process to convert solid waste to a clean-burning fuel for the purpose of generating electricity, and that meets all of the following criteria:



1 (A) The technology does not use air or oxygen in the  
2 conversion process, except ambient air to maintain temperature  
3 control.

4 (B) The technology produces no discharges of air  
5 contaminants or emissions, including greenhouse gases as  
6 defined in Section 42801.1 of the Health and Safety Code.

7 (C) The technology produces no discharges to surface or  
8 groundwaters of the state.

9 (D) The technology produces no hazardous wastes.

10 (E) To the maximum extent feasible, the technology removes  
11 all recyclable materials and marketable green waste compostable  
12 materials from the solid waste stream prior to the conversion  
13 process and the owner or operator of the facility certifies that  
14 those materials will be recycled or composted.

15 (F) The facility at which the technology is used is in  
16 compliance with all applicable laws, regulations, and ordinances.

17 (G) The technology meets any other conditions established by  
18 the ~~commission~~ department.

19 (H) The facility certifies that any local agency sending solid  
20 waste to the facility diverted at least 30 percent of all solid waste  
21 it collects through solid waste reduction, recycling, and  
22 composting. For purposes of this paragraph “local agency”  
23 means any city, county, or special district, or subdivision thereof,  
24 which is authorized to provide solid waste handling services.

25 (b) “Renewable energy public goods charge” means that  
26 portion of the nonbypassable system benefits charge authorized  
27 to be collected and to be transferred to the Renewable Resource  
28 Trust Fund pursuant to the Reliable Electric Service Investments  
29 Act (Article 15 (commencing with Section 399) of Chapter 2.3 of  
30 Part 1 of Division 1 of the Public Utilities Code).

31 (c) “Report” means the report entitled “Investing in  
32 Renewable Electricity Generation in California” (June 2001,  
33 Publication Number P500-00-022) submitted to the Governor  
34 and the Legislature by the ~~commission~~ predecessor State Energy  
35 Resources Conservation and Development Commission.

36 *SEC. 197. Section 25742 of the Public Resources Code is*  
37 *amended to read:*

38 25742. (a) Twenty percent of the funds collected pursuant to  
39 the renewable energy public goods charge shall be used for  
40 programs that are designed to improve the competitiveness of



1 existing in-state renewable electricity generation facilities, and to  
2 secure for the state the environmental, economic, and reliability  
3 benefits that continued operation of those facilities will provide.  
4 Eligibility for incentives under this section shall be limited to  
5 those technologies found eligible for funds by the ~~commission~~  
6 *department* pursuant to paragraphs (5), (6), and (8) of subdivision  
7 (c) of Section 399.6 of the Public Utilities Code.

8 (b) Any funds used to support in-state renewable electricity  
9 generation facilities pursuant to this section shall be expended in  
10 accordance with the provisions of the report, subject to all of the  
11 following requirements:

12 (1) Of the funding for existing renewable electricity generation  
13 facilities available pursuant to this section, 75 percent shall be  
14 used to fund first tier technologies, including biomass and solar  
15 electric technologies and 25 percent shall be used to fund second  
16 tier wind technologies.

17 (2) The ~~commission~~ *department* shall reexamine the tier  
18 structure as proposed in the report and adjust the structure to  
19 reflect market and contractual conditions. The ~~commission~~  
20 *department* shall also consider inflation when adjusting the  
21 structure.

22 (3) The ~~commission~~ *department* shall establish a cents per  
23 kilowatthour production incentive, not to exceed the payment  
24 caps per kilowatthour established in the report, as those payment  
25 caps are revised in guidelines adopted by the ~~commission~~  
26 *department*, representing the difference between target prices and  
27 the price paid for electricity, if sufficient funds are available. If  
28 there are insufficient funds in any payment period to pay either  
29 the difference between the target and price paid for electricity or  
30 the payment caps, production incentives shall be based on the  
31 amount determined by dividing available funds by eligible  
32 generation. The price paid for electricity shall be determined by  
33 the ~~commission~~ *department* based on the energy prices paid to  
34 nonutility power generators as authorized by the Public Utilities  
35 Commission, or on otherwise available measures of price. For the  
36 first tier technologies, the ~~commission~~ *department* shall establish  
37 a time-differentiated incentive structure that encourages plants to  
38 run the maximum feasible amount of time and that provides a  
39 higher incentive when the plants are receiving the lowest price.



(4) Facilities that are eligible to receive funding pursuant to this section shall be registered in accordance with criteria developed by the ~~commission~~ *department* and those facilities may not receive payments for any electricity produced that has any of the following characteristics:

(A) Is sold at monthly average rates equal to or greater than the applicable target price, as determined by the ~~commission~~ *department*.

(B) Is that portion of electricity generation attributable to the use of qualified agricultural biomass fuel, for a facility that is receiving fuel-based incentives through the Agricultural Biomass-to-Energy Incentive Grant Program established pursuant to Part 3 (commencing with Section 1101) of Division 1 of the Food and Agricultural Code. Notwithstanding subdivision (f) of Section 1104 of the Food and Agricultural Code, facilities that receive funding from the Agricultural Biomass-to-Energy Incentive Grant Program are eligible to receive funding pursuant to this section.

(C) Is used onsite or is sold to customers in a manner that excludes competitive transition charge payments, or is otherwise excluded from competitive transition charge payments.

*SEC. 198. Section 25743 of the Public Resources Code is amended to read:*

25743. (a) Fifty-one and one-half percent of the money collected pursuant to the renewable energy public goods charge, shall be used for programs designed to foster the development of new in-state renewable electricity generation facilities, and to secure for the state the environmental, economic, and reliability benefits that operation of those facilities will provide.

(b) Any funds used for new in-state renewable electricity generation facilities pursuant to this section shall be expended in accordance with the report, subject to all of the following requirements:

(1) In order to cover the above market costs of renewable resources as approved by the Public Utilities Commission and selected by retail sellers to fulfill their obligations under Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, the ~~commission~~ *department* shall award funds in the form of supplemental energy payments, subject to the following criteria:



1 (A) The ~~commission~~ *department* may establish caps on  
2 supplemental energy payments. The caps shall be designed to  
3 provide for a viable energy market capable of achieving the goals  
4 of Article 16 (commencing with Section 399.11) of Chapter 2.3  
5 of Part 1 of the Public Utilities Code. The ~~commission~~  
6 *department* may waive application of the caps to accommodate a  
7 facility, if it is demonstrated to the satisfaction of the ~~commission~~  
8 *department*, that operation of the facility would provide  
9 substantial economic and environmental benefits to end-use  
10 customers subject to the funding requirements of the renewable  
11 energy public goods charge.

12 (B) Supplemental energy payments shall be awarded only to  
13 facilities that are eligible for funding under this subdivision.

14 (C) Supplemental energy payments awarded to facilities  
15 selected by an electrical corporation pursuant to Article 16  
16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of  
17 Division 1 of the Public Utilities Code shall be paid for the lesser  
18 of 10 years, or the duration of the contract with the electrical  
19 corporation.

20 (D) The ~~commission~~ *department* shall reduce or terminate  
21 supplemental energy payments for projects that fail either to  
22 commence and maintain operations consistent with the  
23 contractual obligations to an electrical corporation, or that fail to  
24 meet eligibility requirements.

25 (E) Funds shall be managed in an equitable manner in order  
26 for retail sellers to meet their obligation under Article 16  
27 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of  
28 Division 1 of the Public Utilities Code.

29 (2) The ~~commission~~ *department* may determine as part of a  
30 solicitation, that a facility that does not meet the definition of an  
31 “in-state renewable electricity generation technology” facility  
32 solely because it is located outside the state, is eligible for  
33 funding under this subdivision if it meets all of the following  
34 requirements:

35 (A) It is located so that it is or will be connected to the  
36 Western Electricity Coordinating Council (WECC) transmission  
37 system.

38 (B) It is developed with guaranteed contracts to sell its  
39 generation to end-use customers subject to the funding  
40 requirements of Section 381, or to marketers that provide this



1 guarantee for resale of the generation, for a period of time at least  
2 equal to the amount of time it receives incentive payments under  
3 this subdivision.

4 (C) It will not cause or contribute to any violation of a  
5 California environmental quality standard or requirement.

6 (D) If the facility is outside of the United States, it is  
7 developed and operated in a manner that is as protective of the  
8 environment as a similar facility located in the state.

9 (E) It meets any other condition established by the  
10 ~~commission~~ department.

11 (3) Facilities that are eligible to receive funding pursuant to  
12 this subdivision shall be registered in accordance with criteria  
13 developed by the ~~commission~~ department and those facilities  
14 may not receive payments for any electricity produced that has  
15 any of the following characteristics:

16 (A) Is sold under an existing long-term contract with an  
17 existing in-state electrical corporation if the contract includes  
18 fixed energy or capacity payments, except for that electricity that  
19 satisfies subparagraph (C) of paragraph (1) of subdivision (c) of  
20 Section 399.6 of the Public Utilities Code.

21 (B) Is used onsite or is sold to customers in a manner that  
22 excludes competitive transition charge payments, or is otherwise  
23 excluded from competitive transition charge payments.

24 (C) Is produced by a facility that is owned by an electrical  
25 corporation or a local publicly owned electric utility as defined in  
26 subdivision (d) of Section 9604 of the Public Utilities Code.

27 (D) Is a hydroelectric generation project that will require a  
28 new or increased appropriation of water under Part 2  
29 (commencing with Section 1200) of Division 2 of the Water  
30 Code.

31 (E) Is a solid waste conversion facility, unless the facility  
32 meets the criteria established in paragraph (3) of subdivision (a)  
33 of Section 25741 and the facility certifies that any local agency  
34 sending solid waste to the facility is in compliance with Division  
35 30 (commencing with Section 40000), has reduced, recycled, or  
36 composted solid waste to the maximum extent feasible, and shall  
37 have been found by the California Integrated Waste Management  
38 Board to have diverted at least 30 percent of all solid waste  
39 through source reduction, recycling, and composting.



1 (4) Eligibility to compete for funds or to receive funds shall be  
2 contingent upon having to sell the output of the renewable  
3 electricity generation facility to customers subject to the funding  
4 requirements of the renewable energy public goods charge.

5 (5) The ~~commission~~ *department* may require applicants  
6 competing for funding to post a forfeitable bid bond or other  
7 financial guaranty as an assurance of the applicant's intent to  
8 move forward expeditiously with the project proposed. The  
9 amount of any bid bond or financial guaranty may not exceed 10  
10 percent of the total amount of the funding requested by the  
11 applicant.

12 (6) In awarding funding, the ~~commission~~ *department* may  
13 provide preference to projects that provide tangible demonstrable  
14 benefits to communities with a plurality of minority or  
15 low-income populations.

16 (c) Repowered existing facilities shall be eligible for funding  
17 under this subdivision if the capital investment to repower the  
18 existing facility equals at least 80 percent of the value of the  
19 repowered facility.

20 (d) Facilities engaging in the direct combustion of municipal  
21 solid waste or tires are not eligible for funding under this  
22 subdivision.

23 (e) Production incentives awarded under this subdivision prior  
24 to January 1, 2002, shall commence on the date that a project  
25 begins electricity production, provided that the project was  
26 operational prior to January 1, 2002, unless the ~~commission~~  
27 *department* finds that the project will not be operational prior to  
28 January 1, 2002, due to circumstances beyond the control of the  
29 developer. Upon making a finding that the project will not be  
30 operational due to circumstances beyond the control of the  
31 developer, the ~~commission~~ *department* shall pay production  
32 incentives over a five-year period, commencing on the date of  
33 operation, provided that the date that a project begins electricity  
34 production may not extend beyond January 1, 2007.

35 (f) Facilities generating electricity from biomass energy shall  
36 be considered an in-state renewable electricity generation  
37 technology facility to the extent that they report to the  
38 ~~commission~~ *department* the types and quantities of biomass fuels  
39 used and certify to the satisfaction of the ~~commission~~ *department*  
40 that fuel utilization is limited to the following:



1 (1) Agricultural crops and agricultural wastes and residues.

2 (2) Solid waste materials such as waste pallets, crates,  
3 dunnage, manufacturing, and construction wood wastes,  
4 landscape or right-of-way tree trimmings, mill residues that are  
5 directly the result of the milling of lumber, and rangeland  
6 maintenance residues.

7 (3) Wood and wood wastes that meet all of the following  
8 requirements:

9 (A) Have been harvested pursuant to an approved timber  
10 harvest plan prepared in accordance with the Z'berg-Nejedly  
11 Forest Practice Act of 1973 (Chapter 8 (commencing with Sec.  
12 4511) of Part 2 of Division 4).

13 (B) Have been harvested for the purpose of forest fire fuel  
14 reduction or forest stand improvement.

15 (C) Do not transport or cause the transportation of species  
16 known to harbor insect or disease nests outside zones of  
17 infestation or current quarantine zones, as identified by the  
18 Department of Food and Agriculture or the Department of  
19 Forestry and Fire Protection, unless approved by the Department  
20 of Food and Agriculture and the Department of Forestry and Fire  
21 Protection.

22 *SEC. 199. Section 25744 of the Public Resources Code is*  
23 *amended to read:*

24 25744. (a) Seventeen and one-half percent of the money  
25 collected pursuant to the renewable energy public goods charge  
26 shall be used for a multiyear, consumer-based program to foster  
27 the development of emerging renewable technologies in  
28 distributed generation applications.

29 (b) Any funds used for emerging technologies pursuant to this  
30 section shall be expended in accordance with the report, subject  
31 to all of the following requirements:

32 (1) Funding for emerging technologies shall be provided  
33 through a competitive, market-based process that shall be in  
34 place for a period of not less than five years, and shall be  
35 structured so as to allow eligible emerging technology  
36 manufacturers and suppliers to anticipate and plan for increased  
37 sale and installation volumes over the life of the program.

38 (2) The program shall provide monetary rebates, buydowns, or  
39 equivalent incentives, subject to subparagraph (C), to purchasers,  
40 lessees, lessors, or sellers of eligible electricity generating



1 systems. Incentives shall benefit the end-use consumer of  
2 renewable generation by directly and exclusively reducing the  
3 purchase or lease cost of the eligible system, or the cost of  
4 electricity produced by the eligible system. Incentives shall be  
5 issued on the basis of the rated electrical generating capacity of  
6 the system measured in watts, or the amount of electricity  
7 production of the system, measured in kilowatthours. Incentives  
8 shall be limited to a maximum percentage of the system price, as  
9 determined by the ~~commission~~ *department*.

10 (3) Eligible distributed emerging technologies are  
11 photovoltaic, solar thermal electric, fuel cell technologies that  
12 utilize renewable fuels, and wind turbines of not more than 50  
13 kilowatts rated electrical generating capacity per customer site,  
14 and other distributed renewable emerging technologies that meet  
15 the emerging technology eligibility criteria established by the  
16 ~~commission~~ *department*. Eligible electricity generating systems  
17 are intended primarily to offset part or all of the consumer's own  
18 electricity demand, and shall not be owned by local publicly  
19 owned electric utilities, nor be located at a customer site that is  
20 not receiving distribution service from an electrical corporation  
21 that is subject to the renewable energy public goods charge and  
22 contributing funds to support programs under this chapter. All  
23 eligible electricity generating system components shall be new  
24 and unused, shall not have been previously placed in service in  
25 any other location or for any other application, and shall have a  
26 warranty of not less than five years to protect against defects and  
27 undue degradation of electrical generation output. Systems and  
28 their fuel resources shall be located on the same premises of the  
29 end-use consumer where the consumer's own electricity demand  
30 is located, and all eligible electricity generating systems shall be  
31 connected to the utility grid in California. The ~~commission~~  
32 *department* may require eligible electricity generating systems to  
33 have meters in place to monitor and measure a system's  
34 performance and generation. Only systems that will be operated  
35 in compliance with applicable law and the rules of the Public  
36 Utilities Commission shall be eligible for funding.

37 (4) The ~~commission~~ *department* shall limit the amount of  
38 funds available for any system or project of multiple systems and  
39 reduce the level of funding for any system or project of multiple



1 systems that has received, or may be eligible to receive, any  
2 government or utility funds, incentives, or credit.

3 (5) In awarding funding, the ~~commission~~ department may  
4 provide preference to systems that provide tangible demonstrable  
5 benefits to communities with a plurality of minority or  
6 low-income populations.

7 (6) In awarding funding, the ~~commission~~ department shall  
8 develop and implement eligibility criteria and a system that  
9 provides preference to systems based upon system performance,  
10 taking into account factors, including, but not limited to, shading,  
11 insulation levels, and installation orientation.

12 (7) At least once annually, the ~~commission~~ department shall  
13 publish and make available to the public the balance of funds  
14 available for emerging renewable energy resources for rebates,  
15 buydowns, and other incentives for the purchase of these  
16 resources.

17 (c) Notwithstanding Section 399.6 of the Public Utilities Code,  
18 the ~~commission~~ department may expend, until December 31,  
19 2008, up to sixty million dollars (\$60,000,000) of the funding  
20 allocated to the Renewable Resources Trust Fund for the  
21 program established in this section, subject to the repayment  
22 requirements of subdivision (f) of Section 25751.

23 *SEC. 200. Section 25745 of the Public Resources Code is*  
24 *amended to read:*

25 25745. (a) Ten percent of the money collected pursuant to  
26 the renewable energy public goods charge shall be used to  
27 provide customer credits to customers that entered into a direct  
28 transaction on or before September 20, 2001, for purchases of  
29 electricity produced by registered in-state renewable electricity  
30 generating facilities.

31 (b) Any funds used for customer credits pursuant to this  
32 section shall be expended, as provided in the report, subject to all  
33 of the following requirements:

34 (1) Customer credits shall be awarded to California retail  
35 customers located in the service territory of an electrical  
36 corporation that is subject to the renewable energy public goods  
37 charge that is contributing funds to support programs under this  
38 chapter, and that is purchasing qualifying electricity from  
39 renewable electricity generating facilities, through transactions  
40 traceable to specific generation sources by any auditable contract



1 trail or equivalent that provides commercial verification that the  
2 electricity from the claimed renewable electricity generating  
3 facilities has been sold once and only once to a retail customer.

4 (2) Credits awarded pursuant to this paragraph may be paid  
5 directly to electric service providers, energy marketers,  
6 aggregators, or generators if those persons or entities account for  
7 the credits on the recipient customer's bills. Credits may not  
8 exceed one and one-half cents (\$0.015) per kilowatthour. Credits  
9 awarded to members of the combined class of customers, other  
10 than residential and small commercial customers, may not exceed  
11 one thousand dollars (\$1,000) per customer per calendar year. In  
12 no event may more than 20 percent of the total customer  
13 incentive funds be awarded to members of the combined class of  
14 customers other than residential and small commercial  
15 customers.

16 (3) The ~~commission~~ department shall develop criteria and  
17 procedures for the identification of energy purchasers and  
18 providers that are eligible to receive funds pursuant to this  
19 paragraph through a process consistent with this paragraph.  
20 These criteria and procedures shall apply only to funding  
21 eligibility and may not extend to other renewable marketing  
22 claims.

23 (4) Customer credits may not be awarded for the purchase of  
24 electricity that is used to meet the obligations of a renewable  
25 portfolio standard.

26 (5) The Public Utilities Commission shall notify the  
27 ~~commission~~ department in writing within 10 days of revoking or  
28 suspending the registration of any electric service provider  
29 pursuant to paragraph (4) of subdivision (b) of Section 394.25 of  
30 the Public Utilities Code.

31 *SEC. 201. Section 25747 of the Public Resources Code is*  
32 *amended to read:*

33 25747. (a) The ~~commission~~ department shall adopt  
34 guidelines governing the funding programs authorized under this  
35 chapter, at a publicly noticed meeting offering all interested  
36 parties an opportunity to comment. Substantive changes to the  
37 guidelines may not be adopted without at least 10 days' written  
38 notice to the public. The public notice of meetings required by  
39 this subdivision may not be less than 30 days. Notwithstanding  
40 any other provision of law, any guidelines adopted pursuant to



1 this chapter or Section 399.13 of the Public Utilities Code, shall  
2 be exempt from the requirements of Chapter 3.5 (commencing  
3 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
4 Government Code. The Legislature declares that the changes  
5 made to this subdivision by the act amending this section during  
6 the 2002 portion of the 2001–02 Regular Session are declaratory  
7 of, and not a change in existing law.

8 (b) Funds to further the purposes of this chapter may be  
9 committed for multiple years.

10 (c) Awards made pursuant to this chapter are grants, subject to  
11 appeal to the ~~commission~~ *department* upon a showing that factors  
12 other than those described in the guidelines adopted by the  
13 ~~commission~~ *department* were applied in making the awards and  
14 payments. Any actions taken by an applicant to apply for, or  
15 become or remain eligible and registered to receive, payments or  
16 awards, including satisfying conditions specified by the  
17 ~~commission~~ *department*, shall not constitute the rendering of  
18 goods, services, or a direct benefit to the ~~commission~~  
19 *department*.

20 *SEC. 202. Section 25748 of the Public Resources Code is*  
21 *amended to read:*

22 25748. (a) The ~~commission~~ *department* shall report to the  
23 Legislature on or before November 1, 2005, and annually  
24 thereafter, regarding the results of the mechanisms funded  
25 pursuant to this chapter. The report shall contain all of the  
26 following:

27 (1) A description of the allocation of funds among existing,  
28 new, and emerging technologies, the allocation of funds among  
29 programs, including consumer-side incentives, and the need for  
30 the reallocation of money among those technologies.

31 (2) The status of account transfers and repayments.

32 (3) A description of the cumulative commitment of claims by  
33 account, the relative demand for funds by account, and a forecast  
34 of future awards.

35 (4) A list identifying the types and quantities of biomass fuels  
36 used by facilities receiving funds pursuant to Section 25743 and  
37 their impacts on improving air quality.

38 (5) A discussion of the progress being made toward achieving  
39 the targets established under Section 25740 by each funding  
40 category authorized pursuant to this chapter.



(6) A description of the allocation of funds from interest on the accounts described in this chapter, and money in the accounts described in subdivision (b) of Section 25751.

(7) An itemized list, including project descriptions, award amounts, and outcomes for projects awarded funding in the prior year.

(8) Other matters the ~~commission~~ *department* determines may be of importance to the Legislature.

(b) Money may be reallocated without further legislative action among existing, new, and emerging technologies and consumer-side programs in a manner consistent with the report and with the latest report provided to the Legislature pursuant to this section, except that reallocations may not reduce the allocation established in Section 25743 nor increase the allocation established in Section 25742.

*SEC. 203. Section 25749 of the Public Resources Code is amended to read:*

25749. The ~~commission~~ *department* shall, by December 1, 2003, prepare and submit to the Legislature a comprehensive renewable electricity generation resource plan that describes the renewable resource potential available in California, and recommendations for a plan for development to achieve the target of increasing the amount of electricity generated from renewable sources per year, so that it equals 17 percent of the total electricity generated for consumption in California by 2006. The ~~commission~~ *department* shall consult with the Public Utilities Commission, electrical corporations, and the Independent System Operator, in the development and preparation of the plan.

*SEC. 204. Section 25750 of the Public Resources Code is amended to read:*

25750. The ~~commission~~ *department* shall participate in proceedings at the Public Utilities Commission that relate to or affect efforts to stimulate the development of electricity generated from renewable sources, in order to obtain coordination of the state's efforts to achieve the target of increasing the amount of electricity generated from renewable sources per year, so that it equals 17 percent of the total electricity generated for consumption in California by 2006.



1     *SEC. 205. Section 25751 of the Public Resources Code is*  
2     *amended to read:*

3     25751. (a) The Renewable Resource Trust Fund is hereby  
4     created in the State Treasury.

5     (b) The following accounts are hereby established within the  
6     Renewable Resource Trust Fund:

7         (1) The Existing Renewable Resources Account.

8         (2) New Renewable Resources Account.

9         (3) Emerging Renewable Resources Account.

10        (4) Customer-Credit Renewable Resource Purchases Account.

11        (5) Renewable Resources Consumer Education Account.

12     (c) The money in the fund may be expended for the state's  
13     administration of this article only upon appropriation by the  
14     Legislature in the annual Budget Act.

15     (d) Notwithstanding Section 383, that portion of revenues  
16     collected by electrical corporations for the benefit of in-state  
17     operation and development of existing and new and emerging  
18     renewable resource technologies, pursuant to Section 399.8 of  
19     the Public Utilities Code, shall be transmitted to the ~~commission~~  
20     *department* at least quarterly for deposit in the Renewable  
21     Resource Trust Fund pursuant to Section 399.6 of the Public  
22     Utilities Code. After setting aside in the fund money that may be  
23     needed for expenditures authorized by the annual Budget Act in  
24     accordance with subdivision (c), the Treasurer shall immediately  
25     deposit money received pursuant to this section into the accounts  
26     created pursuant to subdivision (b) in proportions designated by  
27     the ~~commission~~ *department* for the current calendar year.  
28     Notwithstanding Section 13340 of the Government Code, the  
29     money in the fund and the accounts within the fund are hereby  
30     continuously appropriated to the ~~commission~~ *department* without  
31     regard to fiscal year for the purposes enumerated in this chapter.

32     (e) Upon notification by the ~~commission~~ *department*, the  
33     Controller shall pay all awards of the money in the accounts  
34     created pursuant to subdivision (b) for purposes enumerated in  
35     this chapter. The eligibility of each award shall be determined  
36     solely by the ~~commission~~ *department* based on the procedures it  
37     adopts under this chapter. Based on the eligibility of each award,  
38     the ~~commission~~ *department* shall also establish the need for a  
39     multiyear commitment to any particular award and so advise the  
40     Department of Finance. Eligible awards submitted by the



~~commission~~ department to the Controller shall be accompanied by information specifying the account from which payment should be made and the amount of each payment; a summary description of how payment of the award furthers the purposes enumerated in this chapter; and an accounting of future costs associated with any award or group of awards known to the ~~commission~~ department to represent a portion of a multiyear funding commitment.

(f) The ~~commission~~ department may transfer funds between accounts for cashflow purposes, provided that the balance due each account is restored and the transfer does not adversely affect any of the accounts.

(g) The Department of Finance, commencing March 1, 1999, shall conduct an independent audit of the Renewable Resource Trust Fund and its related accounts annually, and provide an audit report to the Legislature not later than March 1 of each year for which this article is operative. The Department of Finance's report shall include information regarding revenues, payment of awards, reserves held for future commitments, unencumbered cash balances, and other matters that the Director of Finance determines may be of importance to the Legislature.

*SEC. 206. Section 25771 of the Public Resources Code is amended to read:*

25771. On or before July 1, 2006, the ~~commission~~ department shall develop and adopt all of the following:

(a) A database of the energy efficiency of a representative sample of replacement tires sold in the state, based on test procedures adopted by the commission.

(b) Based on the data collected pursuant to subdivision (a), a rating system for the energy efficiency of replacement tires sold in the state, that will enable consumers to make more informed decisions when purchasing tires for their vehicles.

(c) Based on the test procedures adopted pursuant to subdivision (a) and the rating system established pursuant to subdivision (b), requirements for tire manufacturers to report to the ~~commission~~ department the energy efficiency of replacement tires sold in the state.

*SEC. 207. Section 25803 of the Public Resources Code is amended to read:*



1     25803. All funds received by the ~~commission~~ *department*,  
2 *including the commission*, pursuant to Section 25802, shall be  
3 remitted to the State Treasurer for deposit in the account. All  
4 funds in the account shall be expended for purposes of carrying  
5 out the provisions of this division, when appropriated by the  
6 Legislature in the Budget Act.

7     *SEC. 208. Section 25900 of the Public Resources Code is*  
8 *amended to read:*

9     25900. Except as provided in Section 25531, whenever the  
10 *department, including the commission*, finds that any provision  
11 of this division is violated or a violation is threatening to take  
12 place which constitutes an emergency requiring immediate action  
13 to protect the public health, welfare, or safety, the Attorney  
14 General, upon request of the *department or the commission*, shall  
15 petition a court to enjoin ~~such~~ *the* violation. The court shall have  
16 jurisdiction to grant ~~such~~ prohibitory or mandatory injunctive  
17 relief as may be warranted by way of temporary restraining  
18 order, preliminary injunction, and permanent injunction.

19     *SEC. 209. Section 25901 of the Public Resources Code is*  
20 *amended to read:*

21     25901. (a) Within 30 days after the *department, including the*  
22 *commission*, issues its determination on any matter specified in  
23 this division, except as provided in Section 25531, any aggrieved  
24 person may file with the superior court a petition for a writ of  
25 mandate for review thereof. Failure to file such an action does  
26 not preclude a person from challenging the reasonableness and  
27 validity of a decision in any judicial proceedings brought to  
28 enforce the decision or to obtain other civil remedies.

29     (b) The decision of the *department or the commission* shall be  
30 sustained by the court unless the court finds (1) that the  
31 *department or the commission* proceeded without, or in excess of  
32 its jurisdiction, (2) that, based exclusively upon a review of the  
33 record before the *department or the commission*, the decision is  
34 not supported by substantial evidence in light of the whole  
35 record, or (3) that the *department or the commission* failed to  
36 proceed in the manner required by law.

37     (c) Except as otherwise provided in this section, subdivisions  
38 (f) and (g) of Section 1094.5 of the Code of Civil Procedure  
39 govern proceedings pursuant to this section.



(d) The amendment of this section made at the 1989–90 Regular Session of the Legislature does not constitute a change in, but is declaratory of, existing law.

*SEC. 210. Section 25902 of the Public Resources Code is amended to read:*

25902. Any evaluations in the reports required by Section 25309 and any findings and determinations on the notice of intent pursuant to Chapter 6 (commencing with Section 25500) shall not be construed as a final evaluation, finding, or determination by the *department or the* commission and a court action may not be brought to review any ~~such~~ evaluation, finding, or determination.

*SEC. 211. Section 25911 of the Public Resources Code is amended to read:*

~~25911. The State Energy Resources Conservation and Development Commission~~ *commission* may adopt regulations pertaining to urea formaldehyde foam insulation materials as are reasonably necessary to protect the public health and safety. These regulations may include, but are not limited to, prohibition of the manufacture, sale, or installation of urea formaldehyde foam insulation, requirements for safety notices to consumers, certification of installers, and specification of installation practices. Regulations adopted pursuant to this section shall be promulgated after public hearings in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Any regulation adopted by the commission to prohibit the sale and installation of urea formaldehyde foam insulation shall be based upon a record of scientific evidence which demonstrates the need for the prohibition in order to protect the public health and safety.

*SEC. 212. Section 25942 of the Public Resources Code is amended to read:*

25942. (a) On or before July 1, 1995, the ~~commission~~ *department* shall establish criteria for adopting a statewide home energy rating program for residential dwellings. The program criteria shall include, but are not limited to, all of the following elements:

(1) Consistent, accurate, and uniform ratings based on a single statewide rating scale.



1 (2) Reasonable estimates of potential utility bill savings, and  
2 reliable recommendations on cost-effective measures to improve  
3 energy efficiency.

4 (3) Training and certification procedures for home raters and  
5 quality assurance procedures to promote accurate ratings and to  
6 protect consumers.

7 (4) In coordination with home energy rating service  
8 organization databases, procedures to establish a centralized,  
9 publicly accessible, database that includes a uniform reporting  
10 system for information on residential dwellings, excluding  
11 proprietary information, needed to facilitate the program. There  
12 shall be no public access to information in the database  
13 concerning specific dwellings without the owner's or occupant's  
14 permission.

15 (5) Labeling procedures that will meet the needs of home  
16 buyers, homeowners, renters, the real estate industry, and  
17 mortgage lenders with an interest in home energy ratings.

18 (b) The ~~commission~~ *department* shall adopt the program  
19 pursuant to subdivision (a) in consultation with representatives of  
20 the Department of Real Estate, the Department of Housing and  
21 Community Development, the Public Utilities Commission,  
22 investor-owned and municipal utilities, cities and counties, real  
23 estate licensees, homebuilders, mortgage lenders, home  
24 appraisers and inspectors, home energy rating organizations,  
25 contractors who provide home energy services, consumer groups,  
26 and environmental groups.

27 (c) On and after January 1, 1996, no home energy rating  
28 services may be performed in this state unless the services have  
29 been certified, if such a certification program is available, by the  
30 ~~commission~~ *department* to be in compliance with the program  
31 criteria specified in subdivision (a) and, in addition, are in  
32 conformity with any other applicable element of the program.

33 (d) On or before July 1, 1996, the ~~commission~~ *department*  
34 shall consult with the agencies and organizations described in  
35 subdivision (b), to facilitate a public information program to  
36 inform homeowners, rental property owners, renters, sellers, and  
37 others of the existence of the statewide home energy rating  
38 program adopted by the ~~commission~~ *department*.

39 (e) Beginning with the 1998 biennial energy conservation  
40 report required by Section 25401.1, the ~~commission~~ *department*



shall, as part of that biennial report, report on the progress made to implement a statewide home energy rating program. The report shall include an evaluation of the energy savings attributable to the program, and a recommendation concerning which means and methods will be most efficient and cost effective to induce home energy ratings for residential dwellings.

*SEC. 213. Section 25967 of the Public Resources Code is amended to read:*

25967. (a) Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction.

(b) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city.

(c) If the action is brought at the request of the *department or the commission*, the court shall determine the reasonable expenses incurred by the *department or the commission* in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (b), ~~the amount of such~~ reasonable expenses incurred by the *department or the commission* shall be paid to the State Treasurer.

*SEC. 214. Section 25968 of the Public Resources Code is amended to read:*

25968. Any inspector appointed or authorized by the *department or the commission* shall have access to the premises, equipment, materials, partly finished and finished articles, and records of any person subject to the provisions of this chapter.

*SEC. 215. Section 26004 of the Public Resources Code is amended to read:*



1 26004. (a) There is in the state government the California  
2 Alternative Energy and Advanced Transportation Financing  
3 Authority. The authority constitutes a public instrumentality and  
4 the exercise by the authority of powers conferred by this division  
5 is the performance of an essential public function.

6 (b) The authority shall consist of five members, as follows:

7 (1) The Director of Finance.

8 ~~(2) The Chairperson of the State Energy Resources~~  
9 ~~Conservation and Development Commission Secretary of~~  
10 ~~Energy.~~

11 (3) The President of the Public Utilities Commission.

12 (4) The Controller.

13 (5) The Treasurer, who shall serve as the chairperson of the  
14 authority.

15 (c) The members listed in paragraphs (1) to (5), inclusive, of  
16 subdivision (b) may each designate a deputy or clerk in his or her  
17 agency to act for and represent the member at all meetings of the  
18 authority.

19 (d) The first meeting of the authority shall be convened by the  
20 Treasurer.

21 *SEC. 216. Section 26011.5 of the Public Resources Code is*  
22 *amended to read:*

23 26011.5. The authority, in consultation with the ~~State Energy~~  
24 ~~Resources Conservation and Development Commission~~  
25 ~~Department of Energy~~, shall establish criteria for the selection of  
26 projects to receive financing assistance ~~from the authority~~. In the  
27 selection of projects, the ~~authority department~~ shall, in  
28 accordance with the legislative intent, provide financial  
29 assistance under this division in a manner consistent with sound  
30 financial practice. In developing project selection criteria, the  
31 ~~authority department~~ shall consider, but not be limited to, all of  
32 the following:

33 (a) The technological feasibility of the projects.

34 (b) The economic soundness of the projects and a realistic  
35 expectation that all financial obligations can and will be met by  
36 the participating parties.

37 (c) The contribution that the projects can make to a reduction  
38 or more efficient use of fossil fuels.

39 (d) The contribution that the project can make toward  
40 diversifying California's energy resources by fostering renewable



1 energy systems that can substitute, or preferably eliminate, the  
2 demand for conventional energy fuels.

3 (e) Any other ~~such~~ factors that the authority finds significant  
4 in achieving the purposes and objectives of this division.

5 *SEC. 217. Section 26011.6 of the Public Resources Code is*  
6 *amended to read:*

7 26011.6. (a) The authority shall establish a renewable energy  
8 program to provide financial assistance to public power entities,  
9 independent generators, utilities, or businesses manufacturing  
10 components or systems, or both, to generate new and renewable  
11 energy sources, develop clean and efficient distributed  
12 generation, and demonstrate the economic feasibility of new  
13 technologies, such as solar, photovoltaic, wind, and ultralow  
14 emission equipment. The authority shall give preference to  
15 utility-scale projects that can be rapidly deployed to provide a  
16 significant contribution as a renewable energy supply.

17 (b) The authority shall make every effort to expedite the  
18 operation of renewable energy systems, and shall adopt  
19 regulations for purposes of this section and Section 26011.5 as  
20 emergency regulations in accordance with Chapter 3.5  
21 (commencing with Section 11340) of Part 1 of Division 3 of Title  
22 2 of the Government Code. For purposes of that Chapter 3.5,  
23 including Section 11349.6 of the Government Code, the adoption  
24 of the regulations shall be considered by the Office of  
25 Administrative Law to be necessary for the immediate  
26 preservation of the public peace, health and safety, and general  
27 welfare. Notwithstanding the 120-day limitation specified in  
28 subdivision (e) of Section 11346.1 of the Government Code, the  
29 regulations shall be repealed 180 days after their effective date,  
30 unless the authority complies with Sections 11346.2 to 11347.3,  
31 inclusive, as provided in subdivision (e) of Section 11346.1 of  
32 the Government Code.

33 (c) The authority shall consult with the ~~State Energy~~  
34 ~~Resources Conservation and Development Commission~~  
35 *Department of Energy* regarding the financing of projects to  
36 avoid duplication of other renewable energy projects.

37 (d) The authority shall ensure that any financed project shall  
38 offer its power within California on a long-term contract basis.

39 *SEC. 218. Section 30404 of the Public Resources Code is*  
40 *amended to read:*



1 30404. (a) The commission shall periodically, in the case of  
2 ~~the State Energy Resources Conservation and Development~~  
3 ~~Commission~~ *Department of Energy*, the State Board of Forestry  
4 and Fire Protection, the State Water Resources Control Board  
5 and the California regional water quality control boards, the State  
6 Air Resources Board and air pollution control districts and air  
7 quality management districts, the Department of Fish and Game,  
8 the Department of Parks and Recreation, the Department of  
9 Boating and Waterways, the Division of Mines and Geology and  
10 the Division of Oil, Gas, and Geothermal Resources in the  
11 Department of Conservation, and the State Lands Commission,  
12 and may, with respect to any other state agency, submit  
13 recommendations designed to encourage the state agency to carry  
14 out its functions in a manner consistent with this division. The  
15 recommendations may include proposed changes in  
16 administrative regulations, rules, and statutes.

17 (b) Each of those state agencies shall review and consider the  
18 commission recommendations and shall, within six months from  
19 the date of their receipt, to the extent that the recommendations  
20 have not been implemented, report to the Governor and the  
21 Legislature its action and reasons therefor. The report shall also  
22 include the state agency's comments on any legislation that may  
23 have been proposed by the commission.

24 *SEC. 219. Section 322 is added to the Public Utilities Code,*  
25 *to read:*

26 *322. (a) Whenever in this chapter a reference is made to the*  
27 *"California Energy Resources Conservation and Development*  
28 *Commission," the "State Energy Resources Conservation and*  
29 *Development Commission," or the "Energy Commission," it*  
30 *means the Department of Energy as successor to that entity.*

31 *(b) Whenever in this chapter a reference is made to the*  
32 *Department of Water Resources acting pursuant to Division 27*  
33 *(commencing with Section 80000) of the Water Code, it includes*  
34 *the Department of Energy as the successor to the Department of*  
35 *Water Resources.*

36 *SEC. 220. Section 332.1 of the Public Utilities Code is*  
37 *amended to read:*

38 *332.1. (a) (1) It is the intent of the Legislature to enact Item*  
39 *1 (revised) on the commission's August 21, 2000 agenda, entitled*  
40 *"Opinion Modifying Decision (D.) D.00-06-034 and*



1 D.00-08-021 to Regarding Interim Rate Caps for San Diego Gas  
2 and Electric Company,” as modified below.

3 (2) It is also the intent of the Legislature that to the extent that  
4 the Federal Energy Regulatory Commission orders refunds to  
5 electrical corporations pursuant to their findings, the commission  
6 shall ensure that any refunds are returned to customers.

7 (b) The commission shall establish a ceiling of six and  
8 five-tenths cents (\$0.065) per kilowatthour on the energy  
9 component of electric bills for electricity supplied to residential,  
10 small commercial, and street lighting customers by the San  
11 Diego Gas and Electric Company, through December 31, 2002,  
12 retroactive to June 1, 2000. If the commission finds it in the  
13 public interest, this ceiling may be extended through December  
14 2003 and may be adjusted as provided in subdivision (d).

15 (c) The commission shall establish an accounting procedure to  
16 track and recover reasonable and prudent costs of providing  
17 electric energy to retail customers unrecovered through retail  
18 bills due to the application of the ceiling provided for in  
19 subdivision (b). The accounting procedure shall utilize revenues  
20 associated with sales of energy from utility-owned or managed  
21 generation assets to offset an undercollection, if undercollection  
22 occurs. The accounting procedure shall be reviewed periodically  
23 by the commission, but not less frequently than semiannually.  
24 The commission may utilize an existing proceeding to perform  
25 the review. The accounting procedure and review shall provide a  
26 reasonable opportunity for San Diego Gas and Electric Company  
27 to recover its reasonable and prudent costs of service over a  
28 reasonable period of time.

29 (d) If the commission determines that it is in the public interest  
30 to do so, the commission, after the date of the completion of the  
31 proceeding described in subdivision (g), may adjust the ceiling  
32 from the level specified in subdivision (b), and may adjust the  
33 frozen rate from the levels specified in subdivision (f), consistent  
34 with the Legislature’s intent to provide substantial protections for  
35 customers of the San Diego Gas and Electric Company and their  
36 interest in just and reasonable rates and adequate service.

37 (e) For purposes of this section, “small commercial customer”  
38 includes, but is not limited to, all San Diego Gas and Electric  
39 Company accounts on Rate Schedule A of the San Diego Gas  
40 and Electric Company, all accounts of customers who are



1 “general acute care hospitals,” as defined in Section 1250 of the  
2 Health and Safety Code, all San Diego Gas and Electric  
3 Company accounts of customers who are public or private  
4 schools for pupils in kindergarten or any of grades 1 to 12,  
5 inclusive, and all accounts on Rate Schedule AL-TOU under 100  
6 kilowatts.

7 (f) The commission shall establish an initial frozen rate of six  
8 and five-tenths cents (\$0.065) per kilowatthour on the energy  
9 component of electric bills for electricity supplied to all  
10 customers by the San Diego Gas and Electric Company not  
11 subject to subdivision (b), for the time period ending with the end  
12 of the rate freeze for the Pacific Gas and Electric Company and  
13 the Southern California Edison Company pursuant to Section  
14 368, retroactive to February 7, 2001. The commission shall  
15 consider the comparable energy components of rates for  
16 comparable customer classes served by the Pacific Gas and  
17 Electric Company and the Southern California Edison Company  
18 and, if it determines it to be in the public interest, the commission  
19 may adjust this frozen rate, and may do so, retroactive to the date  
20 that rate increases took effect for customers of Pacific Gas and  
21 Electric Company and Southern California Edison Company  
22 pursuant to the commission’s March 27, 2001, decision. The  
23 commission shall determine the Fixed Department of Water  
24 Resources Set-Aside pursuant to Section 360.5 for customers  
25 subject to this section, reflecting a retail rate consistent with the  
26 rate for the energy component of electric bills as determined in  
27 this subdivision, in place of the retail rate in effect on January 5,  
28 2001. This section shall be construed to modify the payment  
29 provisions, but may not be construed to modify the electric  
30 procurement obligations of the Department of Water Resources,  
31 *or its successor, the Department of Energy*, pursuant to any  
32 contract or agreement in accordance with Division 27  
33 (commencing with Section 80000) of the Water Code, and in  
34 effect as of February 7, 2001, between the Department of Water  
35 Resources and San Diego Gas and Electric Company.

36 (g) The commission shall institute a proceeding to examine the  
37 prudence and reasonableness of the San Diego Gas and Electric  
38 Company in the procurement of wholesale energy on behalf of its  
39 customers, for a period beginning, at the latest, on June 1, 2000.  
40 If the commission finds that San Diego Gas and Electric



1 Company acted imprudently or unreasonably, the commission  
2 shall issue orders that it determines to be appropriate affecting  
3 the retail rates of San Diego Gas and Electric Company  
4 customers including, but not limited to, refunds.

5 (h) Nothing in this section may be construed to limit the  
6 authority of the Department of Water Resources, *or its successor*,  
7 pursuant to Division 27 (commencing with Section 80000) of the  
8 Water Code.

9 *SEC. 221. Article 2 (commencing with Section 334) of*  
10 *Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code is*  
11 *repealed.*

12 *SEC. 222. Section 345.1 is added to the Public Utilities Code,*  
13 *to read:*

14 *345.1. (a) The Independent System Operator governing*  
15 *board shall be composed of a five-member independent*  
16 *governing board of directors appointed by the Governor and*  
17 *subject to confirmation by the Senate. Any reference in this*  
18 *chapter or in any other provision of law to the Independent*  
19 *System Operator governing board means the independent*  
20 *governing board appointed under this subdivision.*

21 *(b) A member of the independent governing board appointed*  
22 *under subdivision (a) may not be affiliated with any actual or*  
23 *potential participant in any market administered by the*  
24 *Independent System Operator.*

25 *(c) (1) All appointments shall be for three-year terms.*

26 *(2) There is no limit on the number of terms that may be*  
27 *served by any member.*

28 *(d) The Office of Energy Market Oversight shall require the*  
29 *articles of incorporation and bylaws of the Independent System*  
30 *Operator to be revised in accordance with this section, and shall*  
31 *make filings with the Federal Energy Regulatory Commission as*  
32 *the office determines to be necessary.*

33 *(e) For the purposes of the initial appointments to the*  
34 *Independent System Operator governing board, as provided in*  
35 *subdivision (a), the Governor shall appoint one member to a*  
36 *one-year term, two members to a two-year term, and two*  
37 *members to a three-year term.*

38 *SEC. 223. Section 345.2 is added to the Public Utilities Code,*  
39 *to read:*



1     345.2. (a) *The Independent System Operator and Power*  
2 *Exchange* bylaws shall contain provisions that identify those  
3 matters specified in subdivision (b) of Section 25277.4 of the  
4 *Public Resources Code* as matters within state jurisdiction. The  
5 bylaws shall also contain provisions which state that California's  
6 bylaws approval function with respect to the matters specified in  
7 subdivision (b) of Section 25277.4 of the *Public Resources Code*  
8 shall not preclude the Federal Energy Regulatory Commission  
9 from taking any action necessary to address undue  
10 discrimination or other violations of the Federal Power Act (16  
11 U.S.C. Sec. 791a et seq.) or to exercise any other commission  
12 responsibility under the Federal Power Act. In taking any such  
13 action, the Federal Energy Regulatory Commission shall give  
14 due respect to California's jurisdictional interests in the  
15 functions of the Independent System Operator and Power  
16 Exchange and to attempt to accommodate state interests to the  
17 extent those interests are not inconsistent with the Federal  
18 Energy Regulatory Commission's statutory responsibilities. The  
19 bylaws shall state that any future agreement regarding the  
20 apportionment of the Independent System Operator and Power  
21 Exchange board appointment function among participating  
22 states associated with the expansion of the Independent System  
23 Operator and Power Exchange into multistate entities shall be  
24 filed with the Federal Energy Regulatory Commission pursuant  
25 to Section 205 of the Federal Power Act (16 U.S.C. Sec. 824d).

26     (b) Any necessary bylaw changes to implement the provisions  
27 of Section 345.1 or subdivision (a) of this section, or Section  
28 25277.1, 25277.3, or 25277.4 of the *Public Resources Code*, or  
29 changes required pursuant to an agreement as contemplated by  
30 subdivision (a) of this section with a participating state for a  
31 regional organization, shall be effective upon approval of the  
32 respective governing boards and the Office of Energy Market  
33 Oversight and acceptance for filing by the Federal Energy  
34 Regulatory Commission.

35     SEC. 224. Section 348 of the *Public Utilities Code* is  
36 amended to read:

37     348. The Independent System Operator shall adopt  
38 inspection, maintenance, repair, and replacement standards for  
39 the transmission facilities under its control no later than  
40 September 30, 1997. The standards, which shall be performance



1 or prescriptive standards, or both, as appropriate, for each  
 2 substantial type of transmission equipment or facility, shall  
 3 provide for high-quality, safe, and reliable service. In adopting its  
 4 standards, the Independent System Operator shall consider: cost,  
 5 local geography and weather, applicable codes, national electric  
 6 industry practices, sound engineering judgment, and experience.  
 7 The Independent System Operator shall also adopt standards for  
 8 reliability, and safety during periods of emergency and disaster.  
 9 The Independent System Operator shall report to the ~~Oversight~~  
 10 ~~Board Office of Energy Market Oversight~~, at ~~such~~ the times as  
 11 the ~~Oversight Board~~ office may specify, on the development and  
 12 implementation of the standards in relation to facilities under the  
 13 operational control of the Independent System Operator. The  
 14 Independent System Operator shall require each transmission  
 15 facility owner or operator to report annually on its compliance  
 16 with the standards. That report shall be made available to the  
 17 public.

18 *SEC. 225. Section 350 of the Public Utilities Code is*  
 19 *amended to read:*

20 350. The Independent System Operator, in consultation with  
 21 the ~~California Energy Resources Conservation and Development~~  
 22 ~~Commission~~ Department of Energy, the Public Utilities  
 23 Commission, the Western Electricity Coordinating Council, and  
 24 concerned regulatory agencies in other western states, shall  
 25 within six months after the Federal Energy Regulatory  
 26 Commission approval of the Independent System Operator,  
 27 provide a report to the Legislature and to the ~~Oversight Board~~  
 28 *Office of Energy Market Oversight* that does the following:

29 (a) Conducts an independent review and assessment of  
 30 Western Electricity Coordinating Council operating reliability  
 31 criteria.

32 (b) Quantifies the economic cost of major transmission  
 33 outages relating to the Pacific Intertie, Southwest Power Link,  
 34 DC link, and other important high voltage lines that carry power  
 35 both into and from California.

36 (c) Identifies the range of cost-effective options that would  
 37 prevent or mitigate the consequences of major transmission  
 38 outages.

39 (d) Identifies communication protocols that may be needed to  
 40 be established to provide advance warning of incipient problems.



1 (e) Identifies the need for additional generation reserves and  
2 other voltage support equipment, if any, or other resources that  
3 may be necessary to carry out its functions.

4 (f) Identifies transmission capacity additions that may be  
5 necessary at certain times of the year or under certain conditions.

6 (g) Assesses the adequacy of current and prospective  
7 institutional provisions for the maintenance of reliability.

8 (h) Identifies mechanisms to enforce transmission  
9 right-of-way maintenance.

10 (i) Contains recommendations regarding cost-beneficial  
11 improvements to electric system reliability for the citizens of  
12 California.

13 *SEC. 226. Section 352 of the Public Utilities Code is*  
14 *amended to read:*

15 352. The Independent System Operator may not enter into a  
16 multistate entity or a regional organization as authorized in  
17 Section 359 unless that entry is approved by the ~~Oversight Board~~  
18 *Office of Energy Market Oversight.*

19 *SEC. 227. Section 353.7 of the Public Utilities Code is*  
20 *amended to read:*

21 353.7. Notwithstanding Section 353.3, nothing in this article  
22 may result in any exemption from reasonable interconnection  
23 charges, lead to any reduction in contributions by each customer  
24 class to public purpose programs funded under Section 399.8, or  
25 relieve any customer of any obligation determined by the  
26 commission to result from participation in the purchase of power  
27 through the Department of Water Resources, *or its successor, the*  
28 *Department of Energy*, pursuant to Division 27 (commencing  
29 with Section 80000) of the Water Code.

30 *SEC. 228. Section 360 of the Public Utilities Code is*  
31 *amended to read:*

32 360. The *Department of Energy and the* commission shall  
33 ensure that existing, and if necessary, additional filings at the  
34 Federal Energy Regulatory Commission request confirmation of  
35 the relevant provisions of this chapter and seek the authority  
36 needed to give the Independent System Operator the ability to  
37 secure generating and transmission resources necessary to  
38 guarantee achievement of planning and operating reserve criteria  
39 no less stringent than those established by the Western Electricity



1 Coordinating Council and the North American Electric  
2 Reliability Council.

3 *SEC. 229. Section 365 of the Public Utilities Code is*  
4 *amended to read:*

5 365. The actions of the commission pursuant to this chapter  
6 shall be consistent with the findings and declarations contained in  
7 Section 330. In addition, the commission shall do all of the  
8 following:

9 (a) Facilitate the efforts of the state's electrical corporations to  
10 develop and obtain authorization from the Federal Energy  
11 Regulatory Commission for the creation and operation of an  
12 Independent System Operator and an independent Power  
13 Exchange, for the determination of which transmission and  
14 distribution facilities are subject to the exclusive jurisdiction of  
15 the commission, and for approval, to the extent necessary, of the  
16 cost recovery mechanism established as provided in Sections 367  
17 to 376, inclusive. The *Office of Energy Market Oversight and the*  
18 *commission shall also participate fully in all proceedings before*  
19 *the Federal Energy Regulatory Commission in connection with*  
20 *the Independent System Operator and the independent Power*  
21 *Exchange, and shall encourage the Federal Energy Regulatory*  
22 *Commission to adopt protocols and procedures that strengthen*  
23 *the reliability of the interconnected transmission grid, encourage*  
24 *all publicly owned utilities in California to become full*  
25 *participants, and maximize enforceability of such these protocols*  
26 *and procedures by all market participants.*

27 (b) (1) Authorize direct transactions between electricity  
28 suppliers and end use customers, subject to implementation of  
29 the nonbypassable charge referred to in Sections 367 to 376,  
30 inclusive. Direct transactions shall commence simultaneously  
31 with the start of an Independent System Operator and Power  
32 Exchange referred to in subdivision (a). The simultaneous  
33 commencement shall occur as soon as practicable, but no later  
34 than January 1, 1998. The commission shall develop a phase-in  
35 schedule at the conclusion of which all customers shall have the  
36 right to engage in direct transactions. Any phase-in of customer  
37 eligibility for direct transactions ordered by the commission shall  
38 be equitable to all customer classes and accomplished as soon as  
39 practicable, consistent with operational and other technological



1 considerations, and shall be completed for all customers by  
2 January 1, 2002.

3 (2) Customers shall be eligible for direct access irrespective of  
4 any direct access phase-in implemented pursuant to this section if  
5 at least one-half of that customer's electrical load is supplied by  
6 energy from a renewable resource provider certified pursuant to  
7 Section 383, provided however that nothing in this section shall  
8 provide for direct access for electric consumers served by  
9 municipal utilities unless so authorized by the governing board of  
10 that municipal utility.

11 *SEC. 230. Section 366.1 of the Public Utilities Code is*  
12 *amended to read:*

13 366.1. (a) As used in this section, the following terms have  
14 the following meanings:

15 (1) "Department" means the Department of Water Resources,  
16 *or its successor, the Department of Energy*, with respect to its  
17 power program described in Chapter 2 (commencing with  
18 Section 80100) of Division 27 of the Water Code.

19 (2) "Existing project participant" means a city with rights and  
20 obligations to the Magnolia Power Project under the Magnolia  
21 Power Project Planning Agreement, dated May 1, 2001.

22 (3) "Magnolia Power Project" means a proposed natural  
23 gas-fired electric generating facility to be located at an existing  
24 site in Burbank and for which an application for certification has  
25 been filed with the State Energy Resources Conservation and  
26 Development Act (Docket No. 00-SIT-1) and deemed data  
27 adequate pursuant to the expedited six-month licensing process  
28 established under Section 25550 of the Public Resources Code.

29 (b) Notwithstanding Section 80110 of the Water Code or  
30 Commission Decision 01-09-060, if the Magnolia Power Project  
31 has been constructed and is otherwise capable of beginning  
32 deliveries of electricity to the existing project participants, an  
33 existing project participant may serve as a community aggregator  
34 on behalf of all retail end-use customers within its jurisdiction.

35 (c) Subdivision (b) shall not become operative until both of the  
36 following occur:

37 (1) The commission implements a cost-recovery mechanism,  
38 consistent with subdivision (d), that is applicable to customers  
39 that elected to purchase electricity from an alternate provider



1 between February 1, 2001, and the effective date of the act  
2 adding this section.

3 (2) The commission submits a report certifying its satisfaction  
4 of paragraph (1) to the Senate Energy, Utilities and  
5 Communications Committee, or its successor, and the Assembly  
6 Committee on Utilities and Commerce, or its successor.

7 (d) (1) It is the intent of the Legislature that each retail  
8 end-use customer that has purchased power from an electrical  
9 corporation on or after February 1, 2001, should bear a fair share  
10 of the department's power purchase costs, as well as power  
11 purchase contract obligations incurred as of January 1, 2003, that  
12 are recoverable from electrical corporation customers in  
13 commission-approved rates. It is the further intent of the  
14 Legislature to prevent any shifting of recoverable costs between  
15 customers.

16 (2) The Legislature finds and declares that the provisions in  
17 this subdivision are consistent with the requirements of Section  
18 360.5 and Division 27 (commencing with Section 80000) of the  
19 Water Code, and are therefore declaratory of existing law.

20 (e) A retail end-use customer purchasing power from a  
21 community aggregator pursuant to subdivision (b) shall  
22 reimburse the department for all of the following:

23 (1) A charge equivalent to the charge which would otherwise  
24 be imposed on the customer by the commission to recover  
25 bond-related costs pursuant to an agreement between the  
26 commission and the ~~Department of Water Resources~~ *department*  
27 pursuant to Section 80110 of the Water Code, that charge shall  
28 be payable until all obligations of the ~~Department of Water~~  
29 ~~Resources~~ *department* pursuant to Division 27 of the Water Code  
30 are fully paid or otherwise discharged.

31 (2) The costs of the department, equal to the share of the  
32 department's estimated net unavoidable power purchase contract  
33 costs attributable to the customer, as determined by the  
34 commission, for the period commencing with the customer's  
35 purchases of electricity from a community aggregator, through  
36 the expiration of all then existing power purchase contracts  
37 entered into by the department.

38 (f) A retail end-use customer purchasing power from a  
39 community aggregator pursuant to subdivision (b) shall



1 reimburse the electrical corporation that previously served the  
2 customer for all of the following:

3 (1) The electrical corporation's unrecovered past  
4 undercollections, including all financing costs attributable to that  
5 customer, that the commission lawfully determines may be  
6 recovered in rates.

7 (2) The costs of the electrical corporation recoverable in  
8 commission-approved rates, equal to the share of the electrical  
9 corporation's estimated net unavoidable power purchase contract  
10 costs attributable to the customer, as determined by the  
11 commission, for the period commencing with the customer's  
12 purchases of electricity from the community aggregator, through  
13 the expiration of all then existing power purchase contracts  
14 entered into by the electrical corporation.

15 (g) (1) A charge or cost imposed pursuant to subdivision (e),  
16 and all revenues received to pay the charge or cost, shall be the  
17 property of the ~~Department of Water Resources~~ department. A  
18 charge or cost imposed pursuant to subdivision (f), and all  
19 revenues received to pay the charge or cost, shall be the property  
20 of the particular electrical corporation. The commission shall  
21 establish mechanisms, including agreements with, or orders with  
22 respect to, electrical corporations necessary to assure that the  
23 revenues received to pay a charge or cost payable pursuant to this  
24 section are promptly remitted to the party entitled to those  
25 revenues.

26 (2) A charge or cost imposed pursuant to this section shall be  
27 nonbypassable.

28 *SEC. 231. Section 366.2 of the Public Utilities Code is*  
29 *amended to read:*

30 366.2. (a) (1) Customers shall be entitled to aggregate their  
31 electric loads as members of their local community with  
32 community choice aggregators.

33 (2) Customers may aggregate their loads through a public  
34 process with community choice aggregators, if each customer is  
35 given an opportunity to opt out of their community's aggregation  
36 program.

37 (3) If a customer opts out of a community choice aggregator's  
38 program, or has no community choice program available, that  
39 customer shall have the right to continue to be served by the  
40 existing electrical corporation or its successor in interest.



1 (b) If a public agency seeks to serve as a community choice  
2 aggregator, it shall offer the opportunity to purchase electricity to  
3 all residential customers within its jurisdiction.

4 (c) (1) Notwithstanding Section 366, a community choice  
5 aggregator is hereby authorized to aggregate the electrical load of  
6 interested electricity consumers within its boundaries to reduce  
7 transaction costs to consumers, provide consumer protections,  
8 and leverage the negotiation of contracts. However, the  
9 community choice aggregator may not aggregate electrical load  
10 if that load is served by a local publicly owned electric utility, as  
11 defined in subdivision (d) of Section 9604. A community choice  
12 aggregator may group retail electricity customers to solicit bids,  
13 broker, and contract for electricity and energy services for those  
14 customers. The community choice aggregator may enter into  
15 agreements for services to facilitate the sale and purchase of  
16 electricity and other related services. Those service agreements  
17 may be entered into by a single city or county, a city and county,  
18 or by a group of cities, cities and counties, or counties.

19 (2) Under community choice aggregation, customer  
20 participation may not require a positive written declaration, but  
21 all customers shall be informed of their right to opt out of the  
22 community choice aggregation program. If no negative  
23 declaration is made by a customer, that customer shall be served  
24 through the community choice aggregation program.

25 (3) A community choice aggregator establishing electrical  
26 load aggregation pursuant to this section shall develop an  
27 implementation plan detailing the process and consequences of  
28 aggregation. The implementation plan, and any subsequent  
29 changes to it, shall be considered and adopted at a duly noticed  
30 public hearing. The implementation plan shall contain all of the  
31 following:

32 (A) An organizational structure of the program, its operations,  
33 and its funding.

34 (B) Ratesetting and other costs to participants.

35 (C) Provisions for disclosure and due process in setting rates  
36 and allocating costs among participants.

37 (D) The methods for entering and terminating agreements with  
38 other entities.



1 (E) The rights and responsibilities of program participants,  
2 including, but not limited to, consumer protection procedures,  
3 credit issues, and shutoff procedures.

4 (F) Termination of the program.

5 (G) A description of the third parties that will be supplying  
6 electricity under the program, including, but not limited to,  
7 information about financial, technical, and operational  
8 capabilities.

9 (4) A community choice aggregator establishing electrical  
10 load aggregation shall prepare a statement of intent with the  
11 implementation plan. Any community choice load aggregation  
12 established pursuant to this section shall provide for the  
13 following:

14 (A) Universal access.

15 (B) Reliability.

16 (C) Equitable treatment of all classes of customers.

17 (D) Any requirements established by state law or by the  
18 commission concerning aggregated service.

19 (5) In order to determine the cost-recovery mechanism to be  
20 imposed on the community choice aggregator pursuant to  
21 subdivisions (d), (e), and (f) that shall be paid by the customers  
22 of the community choice aggregator to prevent shifting of costs,  
23 the community choice aggregator shall file the implementation  
24 plan with the commission, and any other information requested  
25 by the commission that the commission determines is necessary  
26 to develop the cost-recovery mechanism in subdivisions (d), (e),  
27 and (f).

28 (6) The commission shall notify any electrical corporation  
29 serving the customers proposed for aggregation that an  
30 implementation plan initiating community choice aggregation  
31 has been filed, within 10 days of the filing.

32 (7) Within 90 days after the community choice aggregator  
33 establishing load aggregation files its implementation plan, the  
34 commission shall certify that it has received the implementation  
35 plan, including any additional information necessary to  
36 determine a cost-recovery mechanism. After certification of  
37 receipt of the implementation plan and any additional  
38 information requested, the commission shall then provide the  
39 community choice aggregator with its findings regarding any  
40 cost recovery that must be paid by customers of the community



1 choice aggregator to prevent a shifting of costs as provided for in  
2 subdivisions (d), (e), and (f).

3 (8) No entity proposing community choice aggregation shall  
4 act to furnish electricity to electricity consumers within its  
5 boundaries until the commission determines the cost-recovery  
6 that must be paid by the customers of that proposed community  
7 choice aggregation program, as provided for in subdivisions (d),  
8 (e), and (f). The commission shall designate the earliest possible  
9 effective date for implementation of a community choice  
10 aggregation program, taking into consideration the impact on any  
11 annual procurement plan of the electrical corporation that has  
12 been approved by the commission.

13 (9) All electrical corporations shall cooperate fully with any  
14 community choice aggregators that investigate, pursue, or  
15 implement community choice aggregation programs.  
16 Cooperation shall include providing the entities with appropriate  
17 billing and electrical load data, including, but not limited to, data  
18 detailing electricity needs and patterns of usage, as determined  
19 by the commission, and in accordance with procedures  
20 established by the commission. Electrical corporations shall  
21 continue to provide all metering, billing, collection, and customer  
22 service to retail customers that participate in community choice  
23 aggregation programs. Bills sent by the electrical corporation to  
24 retail customers shall identify the community choice aggregator  
25 as providing the electrical energy component of the bill. The  
26 commission shall determine the terms and conditions under  
27 which the electrical corporation provides services to community  
28 choice aggregators and retail customers.

29 (10) (A) A city, county, or city and county that elects to  
30 implement a community choice aggregation program within its  
31 jurisdiction pursuant to this chapter shall do so by ordinance.

32 (B) Two or more cities, counties, or cities and counties may  
33 participate as a group in a community choice aggregation  
34 pursuant to this chapter, through a joint powers agency  
35 established pursuant to Chapter 5 (commencing with Section  
36 6500) of Division 7 of Title 1 of the Government Code, if each  
37 entity adopts an ordinance pursuant to subparagraph (A).

38 (11) Following adoption of aggregation through the ordinance  
39 described in paragraph (10), the program shall allow any retail  
40 customer to opt out and to continue to be served as a bundled



1 service customer by the existing electrical corporation, or its  
2 successor in interest. Delivery services shall be provided at the  
3 same rates, terms, and conditions, as approved by the  
4 commission, for community choice aggregation customers and  
5 customers that have entered into a direct transaction where  
6 applicable, as determined by the commission. Once enrolled in  
7 the aggregated entity, any ratepayer that chooses to opt out  
8 within 60 days or two billing cycles of the date of enrollment  
9 may do so without penalty and shall be entitled to receive default  
10 service pursuant to paragraph (3) of subdivision (a). Customers  
11 that return to the electrical corporation for procurement services  
12 shall be subject to the same terms and conditions as are  
13 applicable to other returning direct access customers from the  
14 same class, as determined by the commission, as authorized by  
15 the commission pursuant to this code or any other provision of  
16 law. Any reentry fees to be imposed after the opt-out period  
17 specified in this paragraph, shall be approved by the commission  
18 and shall reflect the cost of reentry. The commission shall  
19 exclude any amounts previously determined and paid pursuant to  
20 subdivisions (d), (e), and (f) from the cost of reentry.

21 (12) Nothing in this section shall be construed as authorizing  
22 any city or any community choice retail load aggregator to  
23 restrict the ability of retail electricity customers to obtain or  
24 receive service from any authorized electric service provider in a  
25 manner consistent with law.

26 (13) (A) The community choice aggregator shall fully inform  
27 participating customers at least twice within two calendar  
28 months, or 60 days, in advance of the date of commencing  
29 automatic enrollment. Notifications may occur concurrently with  
30 billing cycles. Following enrollment, the aggregated entity shall  
31 fully inform participating customers for not less than two  
32 consecutive billing cycles. Notification may include, but is not  
33 limited to, direct mailings to customers, or inserts in water,  
34 sewer, or other utility bills. Any notification shall inform  
35 customers of both of the following:

36 (i) That they are to be automatically enrolled and that the  
37 customer has the right to opt out of the community choice  
38 aggregator without penalty.

39 (ii) The terms and conditions of the services offered.



(B) The community choice aggregator may request the commission to approve and order the electrical corporation to provide the notification required in subparagraph (A). If the commission orders the electrical corporation to send one or more of the notifications required pursuant to subparagraph (A) in the electrical corporation's normally scheduled monthly billing process, the electrical corporation shall be entitled to recover from the community choice aggregator all reasonable incremental costs it incurs related to the notification or notifications. The electrical corporation shall fully cooperate with the community choice aggregator in determining the feasibility and costs associated with using the electrical corporation's normally scheduled monthly billing process to provide one or more of the notifications required pursuant to subparagraph (A).

(C) Each notification shall also include a mechanism by which a ratepayer may opt out of community choice aggregated service. The opt out may take the form of a self-addressed return postcard indicating the customer's election to remain with, or return to, electrical energy service provided by the electrical corporation, or another straightforward means by which the customer may elect to derive electrical energy service through the electrical corporation providing service in the area.

(14) The community choice aggregator shall register with the commission, which may require additional information to ensure compliance with basic consumer protection rules and other procedural matters.

(15) Once the community choice aggregator's contract is signed, the community choice aggregator shall notify the applicable electrical corporation that community choice service will commence within 30 days.

(16) Once notified of a community choice aggregator program, the electrical corporation shall transfer all applicable accounts to the new supplier within a 30-day period from the date of the close of their normally scheduled monthly metering and billing process.

(17) An electrical corporation shall recover from the community choice aggregator any costs reasonably attributable to the community choice aggregator, as determined by the commission, of implementing this section, including, but not limited to, all business and information system changes, except



1 for transaction-based costs as described in this paragraph. Any  
2 costs not reasonably attributable to a community choice  
3 aggregator shall be recovered from ratepayers, as determined by  
4 the commission. All reasonable transaction-based costs of  
5 notices, billing, metering, collections, and customer  
6 communications or other services provided to an aggregator or its  
7 customers shall be recovered from the aggregator or its  
8 customers on terms and at rates to be approved by the  
9 commission.

10 (18) At the request and expense of any community choice  
11 aggregator, electrical corporations shall install, maintain and  
12 calibrate metering devices at mutually agreeable locations within  
13 or adjacent to the community aggregator's political boundaries.  
14 The electrical corporation shall read the metering devices and  
15 provide the data collected to the community aggregator at the  
16 aggregator's expense. To the extent that the community  
17 aggregator requests a metering location that would require  
18 alteration or modification of a circuit, the electrical corporation  
19 shall only be required to alter or modify a circuit if ~~such the~~  
20 alteration or modification does not compromise the safety,  
21 reliability or operational flexibility of the electrical corporation's  
22 facilities. All costs incurred to modify circuits pursuant to this  
23 paragraph, shall be born by the community aggregator.

24 (d) (1) It is the intent of the Legislature that each retail  
25 end-use customer that has purchased power from an electrical  
26 corporation on or after February 1, 2001, should bear a fair share  
27 of the ~~Department of Water Resources'~~ electricity purchase costs  
28 *of the Department of Water Resources, or its successor, the*  
29 *Department of Energy*, as well as electricity purchase contract  
30 obligations incurred as of the effective date of the act adding this  
31 section, that are recoverable from electrical corporation  
32 customers in commission-approved rates. It is further the intent  
33 of the Legislature to prevent any shifting of recoverable costs  
34 between customers.

35 (2) The Legislature finds and declares that this subdivision is  
36 consistent with the requirements of Division 27 (commencing  
37 with Section 80000) of the Water Code and Section 360.5, and is  
38 therefore declaratory of existing law.



1 (e) A retail end-use customer that purchases electricity from a  
2 community choice aggregator pursuant to this section shall pay  
3 both of the following:

4 (1) A charge equivalent to the charges that would otherwise be  
5 imposed on the customer by the commission to recover  
6 bond-related costs pursuant to any agreement between the  
7 commission and the Department of Water Resources, *or its*  
8 *successor, the Department of Energy*, pursuant to Section 80110  
9 of the Water Code, which charge shall be payable until any  
10 obligations of the ~~Department of Water Resources~~ *department*  
11 pursuant to Division 27 (commencing with Section 80000) of the  
12 Water Code are fully paid or otherwise discharged.

13 (2) Any additional costs of the Department of Water  
14 Resources, *or its successor, the Department of Energy*, equal to  
15 the customer's proportionate share of the ~~Department of Water~~  
16 ~~Resources~~<sup>2</sup> *department's* estimated net unavoidable electricity  
17 purchase contract costs as determined by the commission, for the  
18 period commencing with the customer's purchases of electricity  
19 from the community choice aggregator, through the expiration of  
20 all then existing electricity purchase contracts entered into by the  
21 Department of Water Resources.

22 (f) A retail end-use customer purchasing electricity from a  
23 community choice aggregator pursuant to this section shall  
24 reimburse the electrical corporation that previously served the  
25 customer for all of the following:

26 (1) The electrical corporation's unrecovered past  
27 undercollections for electricity purchases, including any  
28 financing costs, attributable to that customer, that the  
29 commission lawfully determines may be recovered in rates.

30 (2) Any additional costs of the electrical corporation  
31 recoverable in commission-approved rates, equal to the share of  
32 the electrical corporation's estimated net unavoidable electricity  
33 purchase contract costs attributable to the customer, as  
34 determined by the commission, for the period commencing with  
35 the customer's purchases of electricity from the community  
36 choice aggregator, through the expiration of all then existing  
37 electricity purchase contracts entered into by the electrical  
38 corporation.

39 (g) (1) Any charges imposed pursuant to subdivision (e) shall  
40 be the property of the Department of Water Resources, *or its*



1 *successor, the Department of Energy.* Any charges imposed  
2 pursuant to subdivision (f) shall be the property of the electrical  
3 corporation. The commission shall establish mechanisms,  
4 including agreements with, or orders with respect to, electrical  
5 corporations necessary to ensure that charges payable pursuant to  
6 this section shall be promptly remitted to the party entitled to  
7 payment.

8 (2) Charges imposed pursuant to subdivisions (d), (e), and (f)  
9 shall be nonbypassable.

10 (h) Notwithstanding Section 80110 of the Water Code, the  
11 commission shall authorize community choice aggregation only  
12 if the commission imposes a cost-recovery mechanism pursuant  
13 to subdivisions (d), (e), (f), and (g). Except as provided by this  
14 subdivision, this section shall not alter the suspension by the  
15 commission of direct purchases of electricity from alternate  
16 providers other than by community choice aggregators, pursuant  
17 to Section 80110 of the Water Code.

18 (i) (1) The commission shall not authorize community choice  
19 aggregation until it implements a cost-recovery mechanism,  
20 consistent with subdivisions (d), (e), and (f), that is applicable to  
21 customers that elected to purchase electricity from an alternate  
22 provider between February 1, 2001, and January 1, 2003.

23 (2) The commission shall not authorize community choice  
24 aggregation until it submits a report certifying compliance with  
25 paragraph (1) to the Senate Energy, Utilities and  
26 Communications Committee, or its successor, and the Assembly  
27 Committee on Utilities and Commerce, or its successor.

28 (3) The commission shall not authorize community choice  
29 aggregation until it has adopted rules for implementing  
30 community choice aggregation.

31 (j) The commission shall prepare and submit to the  
32 Legislature, on or before January 1, 2006, a report regarding the  
33 number of community choices aggregations, the number of  
34 customers served by community choice aggregations, third-party  
35 suppliers to community choice aggregations, compliance with  
36 this section, and the overall effectiveness of community choice  
37 aggregation programs.

38 *SEC. 232. Section 381 of the Public Utilities Code is*  
39 *amended to read:*



1 381. (a) To ensure that the funding for the programs  
2 described in subdivision (b) and Section 382 are not commingled  
3 with other revenues, the commission shall require each electrical  
4 corporation to identify a separate rate component to collect the  
5 revenues used to fund these programs. The rate component shall  
6 be a nonbypassable element of the local distribution service and  
7 collected on the basis of usage. This rate component shall fall  
8 within the rate levels identified in subdivision (a) of Section 368.

9 (b) The commission shall allocate funds collected pursuant to  
10 subdivision (a), and any interest earned on collected funds, to  
11 programs that enhance system reliability and provide in-state  
12 benefits as follows:

13 (1) Cost-effective energy efficiency and conservation  
14 activities.

15 (2) Public interest research and development not adequately  
16 provided by competitive and regulated markets.

17 (3) In-state operation and development of existing and new  
18 and emerging renewable resource technologies defined as  
19 electricity produced from other than a conventional power source  
20 within the meaning of Section 2805, provided that a power  
21 source utilizing more than 25-percent fossil fuel may not be  
22 included.

23 (c) The Public Utilities Commission shall order the respective  
24 electrical corporations to collect and spend these funds, as  
25 follows:

26 (1) Cost-effective energy efficiency and conservation activities  
27 shall be funded at not less than the following levels commencing  
28 January 1, 1998, through December 31, 2001: for San Diego Gas  
29 and Electric Company a level of thirty-two million dollars  
30 (\$32,000,000) per year; for Southern California Edison Company  
31 a level of ninety million dollars (\$90,000,000) for each of the  
32 years 1998, 1999, and 2000; fifty million dollars (\$50,000,000)  
33 for the year 2001; and for Pacific Gas and Electric Company a  
34 level of one hundred six million dollars (\$106,000,000) per year.

35 (2) Research, development, and demonstration programs to  
36 advance science or technology that are not adequately provided  
37 by competitive and regulated markets shall be funded pursuant to  
38 Section 399.8.

39 (3) In-state operation and development of existing and new  
40 and emerging renewable resource technologies shall be funded at



1 not less than the following levels on a statewide basis: one  
2 hundred nine million five hundred thousand dollars  
3 (\$109,500,000) per year for each of the years 1998, 1999, and  
4 2000, and one hundred thirty-six million five hundred thousand  
5 dollars (\$136,500,000) for the year 2001. To accomplish these  
6 funding levels over the period described herein the San Diego  
7 Gas and Electric Company shall spend twelve million dollars  
8 (\$12,000,000) per year, the Southern California Edison Company  
9 shall expend no less than forty-nine million five hundred  
10 thousand dollars (\$49,500,000) for the years 1998, 1999, and  
11 2000, and no less than seventy-six million five hundred thousand  
12 dollars (\$76,500,000) for the year 2001, and the Pacific Gas and  
13 Electric Company shall expend no less than forty-eight million  
14 dollars (\$48,000,000) per year through the year 2001. Additional  
15 funding not to exceed seventy-five million dollars (\$75,000,000)  
16 shall be allocated from moneys collected pursuant to subdivision  
17 (d) in order to provide a level of funding totaling five hundred  
18 forty million dollars (\$540,000,000).

19 (4) Up to fifty million dollars (\$50,000,000) of the amount  
20 collected pursuant to subdivision (d) may be used to resolve  
21 outstanding issues related to implementation of subdivision (a) of  
22 Section 374. Moneys remaining after fully funding the provisions  
23 of this paragraph shall be reallocated for purposes of paragraph  
24 (3).

25 (5) Up to ninety million dollars (\$90,000,000) of the amount  
26 collected pursuant to subdivision (d) may be used to resolve  
27 outstanding issues related to contractual arrangements in the  
28 Southern California Edison service territory stemming from the  
29 Biennial Resource Planning Update auction. Moneys remaining  
30 after fully funding the provisions of this paragraph shall be  
31 reallocated for purposes of paragraph (3).

32 (6) The funding of in-state operation and development of  
33 existing and new and emerging renewable resources technologies  
34 shall be made available pursuant to Section 399.8.

35 (d) Notwithstanding any other provisions of this chapter, the  
36 commission may allow entities subject to its jurisdiction to  
37 extend the period for competition transition charge collection up  
38 to three months beyond its otherwise applicable termination of  
39 December 31, 2001, so as to ensure that the aggregate portion of  
40 the research, environmental, and low-income funds allocated to



renewable resources shall equal five hundred forty million dollars (\$540,000,000) and that the costs specified in paragraphs (3), (4), and (5) of subdivision (c) are collected.

(e) Each electrical corporation shall allow customers to make voluntary contributions through their utility bill payments as either a fixed amount or a variable amount to support programs established pursuant to paragraph (3) of subdivision (b). Funds collected by electrical corporations for these purposes shall be forwarded in a timely manner to the appropriate fund as specified by the commission.

(f) For purposes of this article, “emerging renewable technology” means a new renewable technology, including, but not limited to, fuel cells using renewable fuels and photovoltaic technology, that is determined by the ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy* to be emerging from research and development and that has significant commercial potential.

(g) The commission’s authority to collect funds pursuant to this section, for purposes of paragraph (3) of subdivision (b), shall become inoperative on March 31, 2002.

*SEC. 233. Section 383 of the Public Utilities Code is amended to read:*

383. Moneys collected pursuant to paragraph (3) of subdivision (b) of Section 381 shall be transferred to a subaccount of the Energy Resources Programs Account of the ~~California Energy Resources Conservation and Development Commission~~ *Department of Energy* to be held until further action by the Legislature for purposes of:

(a) Supporting the operation of existing and the development of new and emerging in-state renewable resource technologies.

(b) Supporting the operations of existing renewable resource generation facilities which provide fire suppression benefits, reduce materials going into landfills, and mitigate the amount of open-field burning of agricultural waste.

(c) Supporting the operations of existing, innovative solar thermal technologies that provide essential peak generation and related reliability benefits.

*SEC. 234. Section 383.6 of the Public Utilities Code is repealed.*



1     ~~383.6. The commission shall, by December 1, 2003, prepare~~  
2 ~~and submit to the Legislature, a comprehensive transmission plan~~  
3 ~~for renewable electricity generation facilities, to provide for the~~  
4 ~~rational, orderly, cost-effective expansion of transmission~~  
5 ~~facilities that may be necessary to facilitate the development of~~  
6 ~~renewable electricity generation facilities identified in the~~  
7 ~~renewable electricity generation resource plan prepared pursuant~~  
8 ~~to Section 25749 of the Public Resources Code. The commission~~  
9 ~~shall consult with the State Energy Resources Conservation and~~  
10 ~~Development Commission, the Independent System Operator,~~  
11 ~~and electrical corporations in the development of and preparation~~  
12 ~~of the plan.~~

13     ~~SEC. 235. Section 384 of the Public Utilities Code is~~  
14 ~~amended to read:~~

15     ~~384. (a) Funds transferred to the State Energy Resources~~  
16 ~~Conservation and Development Commission Department of~~  
17 ~~Energy pursuant to this article for purposes of public interest~~  
18 ~~research, development, and demonstration shall be transferred to~~  
19 ~~the Public Interest Research, Development, and Demonstration~~  
20 ~~Fund, which is hereby created in the State Treasury. The fund is~~  
21 ~~a trust fund and shall contain money from all interest,~~  
22 ~~repayments, disencumbrances, royalties, and any other proceeds~~  
23 ~~appropriated, transferred, or otherwise received for purposes~~  
24 ~~pertaining to public interest research, development, and~~  
25 ~~demonstration. Any appropriations that are made from the fund~~  
26 ~~shall have an encumbrance period of not longer than two years,~~  
27 ~~and a liquidation period of not longer than four years.~~

28     ~~(b) The State Energy Resources Conservation and~~  
29 ~~Development Commission Department of Energy shall report~~  
30 ~~annually to the appropriate budget committees of the Legislature~~  
31 ~~on any encumbrances or liquidations that are outstanding at the~~  
32 ~~time the commission's budget is submitted to the Legislature for~~  
33 ~~review.~~

34     ~~SEC. 236. Section 398.2 of the Public Utilities Code is~~  
35 ~~amended to read:~~

36     ~~398.2. The definitions set forth in this section shall govern the~~  
37 ~~construction of this article.~~

38     ~~(a) "System operator" means the Independent System~~  
39 ~~Operator with responsibility for the efficient use and reliable~~  
40 ~~operation of the transmission grid, as provided by Section 345, or~~



1 a local publicly owned electric utility that does not utilize the  
2 Independent System Operator.

3 (b) "Specific purchases" means electricity transactions which  
4 are traceable to specific generation sources by any auditable  
5 contract trail or equivalent, such as a tradable commodity system,  
6 that provides commercial verification that the electricity source  
7 claimed has been sold once and only once to a retail consumer.  
8 Retail suppliers may rely on annual data to meet this  
9 requirement, rather than hour-by-hour matching of loads and  
10 resources.

11 (c) "Net system power" means the mix of electricity fuel  
12 source types established by the ~~California Energy Resources~~  
13 ~~Conservation and Development Commission~~ *Department of*  
14 *Energy* representing the sources of electricity consumed in  
15 California that are not disclosed as specific purchases pursuant to  
16 Section 398.4.

17 *SEC. 237. Section 398.3 of the Public Utilities Code is*  
18 *amended to read:*

19 398.3. (a) Beginning January 1, 1998, or as soon as  
20 practicable thereafter, each generator that provides meter data to  
21 a system operator shall report to the system operator electricity  
22 generated in kilowatthours by hour by generator, the fuel type or  
23 fuel types and fuel consumption by fuel type by month on an  
24 historical recorded quarterly basis. Facilities using only one fuel  
25 type may satisfy this requirement by reporting fuel type only.  
26 With regard to any facility using more than one fuel type, reports  
27 shall reflect the fuel consumed as a percentage of electricity  
28 generation.

29 (b) The ~~California Energy Resources Conservation and~~  
30 ~~Development Commission~~ *Department of Energy* shall have  
31 authorization to access the electricity generation data in  
32 kilowatthours by hour for each facility that provides meter data  
33 to the system operator, and the fuel type or fuel types.

34 (c) With regard to out-of-state generation, the ~~California~~  
35 ~~Energy Resources Conservation and Development Commission~~  
36 *Department of Energy* shall have authorization to access the  
37 electricity generation data in kilowatthours by hour at the point at  
38 which out-of-state generation is metered, to the extent the  
39 information has been submitted to a system operator.



(d) Trade secrets as defined in subdivision (d) of Section 3426.1 of the Civil Code contained in the information provided to the system operators pursuant to this section shall be treated as confidential. These data may be disclosed only by the system operators and only by authorization of the generator except that the ~~California Energy Resources Conservation and Development Commission~~ *Department of Energy* shall have authorization to access these data, shall consider all these data to be trade secrets, and shall only release these data in an aggregated form such that trade secrets cannot be discerned.

*SEC. 238. Section 398.5 of the Public Utilities Code is amended to read:*

398.5. (a) Retail suppliers that disclose specific purchases pursuant to Section 398.4 shall report on March 1, 1999, and annually thereafter, to the ~~California Energy Resources Conservation and Development Commission~~ *Department of Energy*, for each electricity offering, for the previous calendar year each of the following:

(1) The kilowatthours purchased, by generator and fuel type during the previous calendar year, consistent with the meter data, including losses, reported to the system operator.

(2) For each electricity offering the kilowatthours sold at retail.

(3) For each electricity offering the disclosures made to consumers pursuant to Section 398.4.

(b) Information submitted to the ~~California Energy Resources Conservation and Development Commission~~ *Department of Energy* pursuant to this section that is a trade secret as defined in subdivision (d) of Section 3426.1 of the Civil Code shall not be released except in an aggregated form such that trade secrets cannot be discerned.

(c) On or before January 1, 1998, the ~~California Energy Resources Conservation and Development Commission~~ *Department of Energy* shall specify guidelines and standard formats, based on the requirements of this article and subject to public hearing, for the submittal of information pursuant to this article.

(d) In developing the rules and procedures specified in this section, the ~~California Energy Resources Conservation and Development Commission~~ *Department of Energy* shall seek to



1 minimize the reporting burden and cost of reporting that it  
2 imposes on retail suppliers.

3 (e) On or before October 15, 1999, and annually thereafter, the  
4 ~~California Energy Resources Conservation and Development~~  
5 ~~Commission~~ *Department of Energy* shall issue a report  
6 comparing information available pursuant to Section 398.3 with  
7 information submitted by retail suppliers pursuant to this section,  
8 and with information disclosed to consumers pursuant to Section  
9 398.4. This report shall be forwarded to the California Public  
10 Utilities Commission.

11 (f) Beginning April 15, 1999, and annually thereafter, the  
12 ~~California Energy Resources Conservation and Development~~  
13 ~~Commission~~ *Department of Energy* shall issue a report  
14 calculating net system power. The ~~California Energy Resources~~  
15 ~~Conservation and Development Commission~~ *department* will  
16 establish the generation mix for net generation imports delivered  
17 at interface points and metered by the system operators. The  
18 ~~California Energy Resources Conservation and Development~~  
19 ~~Commission~~ *department* shall issue an initial report calculating  
20 preliminary net system power for calendar year 1997 on or  
21 before January 1, 1998. This report shall be updated on or before  
22 October 15, 1998.

23 (g) The provisions of this section shall not apply to generators  
24 providing electric service onsite, under an over-the-fence  
25 transaction as described in Section 218, or to an affiliate or  
26 affiliates, as defined in subdivision (a) of Section 372.

27 (h) The ~~California Energy Resources Conservation and~~  
28 ~~Development Commission~~ *Department of Energy* may verify the  
29 veracity of environmental claims made by retail suppliers.

30 *SEC. 239. Section 399.1 of the Public Utilities Code, as*  
31 *added by Section 4 of Chapter 1050 of the Statutes of 2000, is*  
32 *repealed.*

33 399.1. (a) As used in this article, the term “Energy  
34 Commission” means the State Energy Resources Conservation  
35 and Development Commission.

36 (b) As used in this article, the term “local publicly owned  
37 electric utility” has the same meaning as set forth in subdivision  
38 (d) of Section 9604.



1     *SEC. 240. Section 399.1 of the Public Utilities Code, as*  
2     *added by Section 4 of Chapter 1051 of the Statutes of 2000, is*  
3     *amended to read:*

4     399.1. (a) As used in this article, the term—“~~Energy~~  
5     ~~Commission~~” means the ~~State Energy Resources Conservation~~  
6     ~~and Development Commission~~ “department” means the  
7     *Department of Energy.*

8     (b) As used in this article, the term “local publicly owned  
9     electric utility” has the same meaning as set forth in subdivision  
10    (d) of Section 9604.

11    *SEC. 241. Section 399.6 of the Public Utilities Code is*  
12    *amended to read:*

13    399.6. (a) In order to optimize public investment and ensure  
14    that the most cost-effective and efficient investments in  
15    renewable resources are vigorously pursued, the—~~Energy~~  
16    ~~Commission~~ department shall create an investment plan as set  
17    forth in paragraphs (1) to (3), inclusive, to govern the allocation  
18    of funds provided pursuant to this article. The—~~Energy~~  
19    ~~Commission’s~~ department’s long-term goal shall be a fully  
20    competitive and self-sustaining California renewable energy  
21    supply. The investment plan shall be in accordance with all of the  
22    following:

23    (1) The investment plan’s objective shall be to increase, in the  
24    near term, the quantity of California’s electricity generated by  
25    in-state renewable energy resources, while protecting system  
26    reliability, fostering resource diversity, and obtaining the greatest  
27    environmental benefits for California residents.

28    (2) An additional objective of the plan shall be to identify and  
29    support emerging renewable energy technologies that have the  
30    greatest near-term commercial promise and that merit targeted  
31    assistance.

32    (3) The investment plan shall contain specific numerical  
33    targets, reflecting the projected impact of the plan, for both of the  
34    following:

35    (A) Increased quantity of California electrical generation  
36    produced from emerging technologies and from overall  
37    renewable resources.

38    (B) Increased supply of renewable generation available from  
39    facilities other than those selling to investor-owned utilities under



1 contracts entered into prior to 1996 under the federal Public  
2 Utilities Regulatory Policies Act of 1978 (P.L. 95-617).

3 (b) The ~~Energy Commission~~ *department* shall, on an annual  
4 basis, evaluate progress on meeting the targets set forth in  
5 subparagraphs (A) and (B) of paragraph (3) of subdivision (a), or  
6 any substitute provisions adopted by the Legislature upon review  
7 of the investment plan, and assess the impact of the investment  
8 plan on reducing the cost to Californians of renewable energy  
9 generation.

10 (c) In preparing these investment plans, the ~~Energy~~  
11 ~~Commission~~ *department* shall recommend allocations among all  
12 of the following:

13 (1) (A) Except as provided in subparagraph (B), production  
14 incentives for new renewable energy, including repowered or  
15 refurbished renewable energy.

16 (B) Allocations may not be made for renewable energy that is  
17 generated by a project that remains under a power purchase  
18 contract with an electrical corporation originally entered into  
19 prior to September 24, 1996, whether amended or restated  
20 thereafter.

21 (C) Notwithstanding subparagraph (B), production incentives  
22 for incremental new, repowered, or refurbished renewable energy  
23 from existing projects under a power purchase contract with an  
24 electrical corporation originally entered into prior to September  
25 24, 1996, whether amended or restated thereafter, may be  
26 allowed in any month, if all of the following occur:

27 (i) The project's power purchase contract provides that all  
28 energy delivered and sold under the contract is paid at a price  
29 that does not exceed commission-approved short run avoided  
30 cost of energy.

31 (ii) Either of the following:

32 (I) The power purchase contract is amended to provide that the  
33 kilowatthours used to determine the capacity payment in any  
34 time-of-delivery period in any month under the contract shall be  
35 equal to the actual kilowatthour production, but no greater than  
36 the five-year average of the kilowatthours delivered for the  
37 corresponding time-of-delivery period and month, in the years  
38 1994 to 1998, inclusive.

39 (II) If a project's installed capacity as of December 31, 1998,  
40 is less than 75 percent of the nameplate capacity as stated in the



1 power purchase contract, the power purchase contract is amended  
2 to provide that the kilowatthours used to determine the capacity  
3 payment in any time-of-delivery period in any month under the  
4 contract shall be equal to the actual kilowatthour production, but  
5 no greater than the product of the five-year average of the  
6 kilowatthours delivered for the corresponding time-of-delivery  
7 period and month, in the years 1994 to 1998, inclusive, and the  
8 ratio of installed capacity as of December 31 of the previous  
9 year, but not to exceed contract nameplate capacity, to the  
10 installed capacity as of December 31, 1998.

11 (iii) The production incentive is payable only with respect to  
12 the kilowatthours delivered in a particular month that exceeds the  
13 corresponding five-year average calculated pursuant to clause  
14 (ii).

15 (2) Rebates, buydowns, or equivalent incentives for emerging  
16 renewable technologies.

17 (3) Customer credits for renewables not under contract with a  
18 utility.

19 (4) Customer education.

20 (5) Incentives for reducing fuel costs that are confirmed to the  
21 satisfaction of the ~~Energy Commission~~ *department* at solid fuel  
22 biomass energy facilities in order to provide demonstrable  
23 environmental and public benefits, including, but not limited to,  
24 air quality.

25 (6) Solar thermal generating resources that enhance the  
26 environmental value or reliability of the electrical system and  
27 that require financial assistance to remain economically viable, as  
28 determined by the ~~Energy Commission~~ *department*. The ~~Energy~~  
29 ~~Commission~~ *department* may require financial disclosure from  
30 applicants for purposes of this paragraph.

31 (7) Specified fuel cell technologies, if the ~~Energy Commission~~  
32 *department* makes all of the following findings:

33 (A) The specified technologies have similar or better air  
34 pollutant characteristics than renewable technologies in the  
35 investment plan.

36 (B) The specified technologies require financial assistance to  
37 become commercially viable by reference to wholesale  
38 generation prices.

39 (C) The specified technologies could contribute significantly  
40 to the infrastructure development or other innovation required to



1 meet the long-term objective of a self-sustaining, competitive  
2 supply of renewable energy.

3 (8) Existing wind-generating resources, if the ~~Energy~~  
4 ~~Commission~~ department finds that the existing wind-generating  
5 resources are a cost-effective source of reliable and  
6 environmental benefits compared with other eligible sources, and  
7 that the existing wind-generating resources require financial  
8 assistance to remain economically viable, as determined by the  
9 ~~Energy Commission~~ department. The ~~Energy Commission~~  
10 department may require financial disclosure from applicants for  
11 the purposes of this paragraph.

12 (d) The commission shall establish a cap on the aggregate  
13 amount of funds that may be awarded to public entities from the  
14 program that provides customer credits for renewables. The  
15 intent of the cap is to assure adequate funding of credits for  
16 residential and small commercial customers.

17 (e) Notwithstanding any other provision of law, moneys  
18 collected for renewable energy pursuant to this article shall be  
19 transferred to the Renewable Resource Trust Fund of the ~~Energy~~  
20 ~~Commission~~ department, to be held until further action by the  
21 Legislature. The ~~Energy Commission~~ department shall prepare  
22 and submit to the Legislature, on or before March 31, 2001, an  
23 initial investment plan for these moneys, addressing the  
24 application of moneys collected between January 1, 2002, and  
25 January 1, 2007. The initial investment plan shall also include an  
26 evaluation of and report to the Legislature regarding the  
27 appropriateness and structure of a mandatory state purchase of  
28 renewable energy. On or before March 31, 2006, the ~~Energy~~  
29 ~~Commission~~ department shall prepare an investment plan  
30 proposing the application of moneys collected between January  
31 1, 2007, and January 1, 2012. No moneys may be expended in  
32 the years covered by these plans without further legislative  
33 action.

34 *SEC. 242. Section 399.7 of the Public Utilities Code is*  
35 *amended to read:*

36 399.7. (a) In order to ensure that prudent investments in  
37 research, development and demonstration of energy efficient  
38 technologies continue to produce substantial economic,  
39 environmental, public health, and reliability benefits, it is the  
40 policy of this state and the intent of the Legislature that funds



1 made available, upon appropriation, for energy related public  
2 interest research, development and demonstration programs shall  
3 be used to advance science or technology that are not adequately  
4 provided by competitive and regulated markets.

5 (b) Notwithstanding any other provision of law, moneys  
6 collected for public-interest research, development and  
7 demonstration pursuant to this section shall be transferred to the  
8 Public Interest Research, Development, and Demonstration Fund  
9 of the ~~Energy Commission~~ department to be held until further  
10 action by the Legislature. The ~~Energy Commission~~ department  
11 shall prepare and submit to the Legislature, on or before March 1,  
12 2001, an initial investment plan for these moneys, addressing the  
13 application of moneys collected between January 1, 2002, and  
14 January 1, 2007. The initial investment plan shall address the  
15 recommendations of the PIER Independent Review Panel Report,  
16 dated March 2000, to either transform the RD&D program within  
17 the ~~Energy Commission~~ department, or to administer it through,  
18 or in cooperation with, an external organization. The initial  
19 investment plan shall include criteria that will be used to  
20 determine that a project provides public benefits to California  
21 that are not adequately provided by competitive and regulated  
22 markets. On or before March 31, 2006, the ~~Energy Commission~~  
23 department shall prepare an investment plan addressing the  
24 application of moneys collected between January 1, 2007, and  
25 January 1, 2012. No moneys may be expended in the years  
26 covered by these plans without further legislative action.

27 (c) In lieu of the commission retaining funds authorized  
28 pursuant to Section 381 for investments made by electrical  
29 corporations in public interest research, development, and  
30 demonstration projects for transmission and distribution  
31 functions, up to 10 percent of the funds transferred to the ~~Energy~~  
32 ~~Commission~~ department pursuant to subdivision (b) shall be  
33 awarded to electrical corporations for public interest research,  
34 development, and demonstration projects for transmission and  
35 distribution functions consistent with the policies and subject to  
36 the requirements of Chapter 7.1 (commencing with Section  
37 25620) of Division 15 of the Public Resources Code.

38 *SEC. 243. Section 399.8 of the Public Utilities Code is*  
39 *amended to read:*



1 399.8. (a) In order to ensure that the citizens of this state  
2 continue to receive safe, reliable, affordable, and  
3 environmentally sustainable electric service, it is the policy of  
4 this state and the intent of the Legislature that prudent  
5 investments in energy efficiency, renewable energy, and  
6 research, development and demonstration shall continue to be  
7 made.

8 (b) (1) Every customer of an electrical corporation, shall pay  
9 a nonbypassable system benefits charge authorized pursuant to  
10 this article. The system benefits charge shall fund energy  
11 efficiency, renewable energy, and research, development and  
12 demonstration.

13 (2) Local publicly owned electric utilities shall continue to  
14 collect and administer system benefits charges pursuant to  
15 Section 385.

16 (c) (1) The commission shall require each electrical  
17 corporation to identify a separate rate component to collect  
18 revenues to fund energy efficiency, renewable energy, and  
19 research, development and demonstration programs authorized  
20 pursuant to this section beginning January 1, 2002, through  
21 January 1, 2012. The rate component shall be a nonbypassable  
22 element of the local distribution service and collected on the  
23 basis of usage.

24 (2) This rate component may not exceed, for any tariff  
25 schedule, the level of the rate component that was used to  
26 recover funds authorized pursuant to Section 381 on January 1,  
27 2000. If the amounts specified in paragraph (1) of subdivision (d)  
28 are not recovered fully in any year, the commission shall reset  
29 the rate component to restore the unrecovered balance, provided  
30 that the rate component may not exceed, for any tariff schedule,  
31 the level of the rate component that was used to recover funds  
32 authorized pursuant to Section 381 on January 1, 2000. Pending  
33 restoration, any annual shortfalls shall be allocated pro rata  
34 among the three funding categories in the proportions established  
35 in paragraph (1) of subdivision (d).

36 (d) The commission shall order San Diego Gas and Electric  
37 Company, Southern California Edison Company, and Pacific Gas  
38 and Electric Company to collect these funds commencing on  
39 January 1, 2002, as follows:



(1) Two hundred twenty-eight million dollars (\$228,000,000) per year in total for energy efficiency and conservation activities, one hundred thirty-five million dollars (\$135,000,000) in total per year for renewable energy, and sixty-two million five hundred thousand dollars (\$62,500,000) in total per year for research, development and demonstration. The funds for energy efficiency and conservation activities shall continue to be allocated in proportions established for the year 2000 as set forth in paragraph (1) of subdivision (c) of Section 381.

(2) The amounts shall be adjusted annually at a rate equal to the lesser of the annual growth in electric commodity sales or inflation, as defined by the gross domestic product deflator.

(e) The commission and the ~~Energy Commission~~ *department* shall retain and continue their oversight responsibilities as set forth in Sections 381 and 383, and Chapter 7.1 (commencing with Section 25620) and Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

(f) (1) On or before January 1, 2004, the Governor shall appoint an independent review panel including, but not limited to, members with expertise on the energy service needs of large and small electricity consumers, system reliability issues, and energy-related public policy. On or before January 1, 2005, the panel shall prepare and submit to the Legislature and the ~~Energy Commission~~ *department* a report evaluating the energy efficiency, renewable energy, and research, development and demonstration programs funded under this section. Reasonable costs associated with the review in each of the three program categories, including technical assistance, may be charged to the relevant program category under procedures to be developed by the commission for energy efficiency and by the ~~Energy Commission~~ *department* for renewable energy and research development and demonstration.

(2) The report shall also assess all of the following:

(A) Whether ongoing programs are consistent with the statutory goals.

(B) Whether potential synergies among the program categories described in paragraph (1) that could provide enhanced public value have been identified and incorporated in the programs.

(C) If established targets for increased renewable generation are likely to be achieved.



1 (D) What changes should be made to result in a more efficient  
2 use of public resources.

3 (3) The report shall also compare the ~~Energy Commission's~~  
4 *department's* programs with efforts undertaken by other states  
5 and assess, as an alternative, the relative costs and benefits of  
6 adopting a tradable minimum renewable energy requirement in  
7 California. The evaluation shall include recommendations  
8 intended to optimize renewable resource development at the least  
9 cost.

10 (4) For energy efficiency programs, the report shall include an  
11 evaluation of all of the following:

12 (A) The net benefits secured for residential customers, taking  
13 into account both public and private costs, including  
14 improvements in that customer group's ability to avoid or reduce  
15 consumption of relatively costly peak electricity.

16 (B) Whether the programs provide a balance of benefits to all  
17 sectors that contribute to the funding.

18 (C) The extent to which competition in energy markets,  
19 including, but not limited to, load participation in ancillary  
20 services markets, and improvements in technology affect the  
21 continuing need for ~~such~~ *the* programs.

22 (D) The status and growth of the private, competitive energy  
23 services industry that provides energy efficiency services and  
24 other energy products to customers.

25 (E) The commercial availability of any new technologies that  
26 reduce electricity demands during high-priced periods.

27 (F) Customers' willingness and ability to reduce consumption  
28 or adopt energy efficiency measures without program support.

29 (G) The extent to which the programs have delivered  
30 cost-effective energy efficiency not adequately provided by  
31 markets and as a result have reduced energy demand and  
32 consumption.

33 (H) The relative cost-effectiveness of program expenditures  
34 compared to other current or potential expenditures to enhance  
35 system reliability.

36 (5) The report shall include specific recommendations aimed  
37 at assisting the Legislature in determining whether to change or  
38 eliminate the collection of the system benefits charge on or after  
39 January 1, 2007.

40 (6) The panel may update and revise the report as needed.



(g) Promptly after receiving the panel's report, the commission shall convene a proceeding to address implementation of the panel's energy efficiency recommendations.

(h) An applicant for the Large Nonresidential Standard Performance Contract Program funded pursuant to paragraph (1) of subdivision (b) and an electrical corporation shall promptly attempt to resolve disputes that arise related to the program's guidelines and parameters prior to entering into a program agreement. The applicant shall provide the electrical corporation with written notice of any dispute. Within 10 business days after receipt of the notice, the parties shall meet to resolve the dispute. If the dispute is not resolved within 10 business days after the date of the meeting, the electrical corporation shall notify the applicant of his or her right to file a complaint with the commission, which complaint shall describe the grounds for the complaint, injury, and relief sought. The commission shall issue its findings in response to a filed complaint within 30 business days of the date of receipt of the complaint. Prior to issuance of its findings, the commission shall provide a copy of the complaint to the electrical corporation, which shall provide a response to the complaint to the commission within five business days of the date of receipt. During the dispute period, the amount of estimated financial incentives shall be held in reserve until the dispute is resolved.

*SEC. 244. Section 399.11 of the Public Utilities Code is amended to read:*

399.11. The Legislature finds and declares all of the following:

(a) In order to attain a target of 20 percent renewable energy for the State of California and for the purposes of increasing the diversity, reliability, public health and environmental benefits of the energy mix, it is the intent of the Legislature that the California Public Utilities Commission and ~~the State Energy Resources Conservation and Development Commission~~ *Department of Energy* implement the California Renewables Portfolio Standard Program described in this article.

(b) Increasing California's reliance on renewable energy resources may promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable



1 economic development, create new employment opportunities,  
2 and reduce reliance on imported fuels.

3 (c) The development of renewable energy resources may  
4 ameliorate air quality problems throughout the state and improve  
5 public health by reducing the burning of fossil fuels and the  
6 associated environmental impacts.

7 (d) The California Renewables Portfolio Standard Program is  
8 intended to complement the Renewable Energy Program  
9 administered by ~~the State Energy Resources Conservation and~~  
10 ~~Development Commission~~ *Department of Energy* and established  
11 pursuant to Chapter 8.6 (commencing with Section 25740) of  
12 Division 15 of the Public Resources Code.

13 *SEC. 245. Section 399.12 of the Public Utilities Code is*  
14 *amended to read:*

15 399.12. For purposes of this article, the following terms have  
16 the following meanings:

17 (a) “*Department*” means *Department of Energy*.

18 (b) “Eligible renewable energy resource” means an electric  
19 generating facility that is one of the following:

20 (1) The facility meets the definition of “in-state renewable  
21 electricity generation facility” in Section 25741 of the Public  
22 Resources Code.

23 (2) A geothermal generation facility originally commencing  
24 operation prior to September 26, 1996, shall be eligible for  
25 purposes of adjusting a retail seller’s baseline quantity of eligible  
26 renewable energy resources except for output certified as  
27 incremental geothermal production by ~~the Energy Commission~~  
28 *department*, provided that the incremental output was not sold to  
29 an electrical corporation under contract entered into prior to  
30 September 26, 1996. For each facility seeking certification, the  
31 ~~Energy Commission~~ *department* shall determine historical  
32 production trends and establish criteria for measuring  
33 incremental geothermal production that recognizes the declining  
34 output of existing steamfields and the contribution of capital  
35 investments in the facility or wellfield.

36 (3) The output of a small hydroelectric generation facility of  
37 30 megawatts or less procured or owned by an electrical  
38 corporation as of the date of enactment of this article shall be  
39 eligible only for purposes of establishing the baseline of an  
40 electrical corporation pursuant to paragraph (3) of subdivision (a)



1 of Section 399.15. A new hydroelectric facility is not an eligible  
2 renewable energy resource if it will require a new or increased  
3 appropriation or diversion of water under Part 2 (commencing  
4 with Section 1200) of Division 2 of the Water Code.

5 (4) A facility engaged in the combustion of municipal solid  
6 waste shall not be considered an eligible renewable resource  
7 unless it is located in Stanislaus County and was operational  
8 prior to September 26, 1996. ~~Output from such facilities. The~~  
9 ~~electricity generated by the facility~~ shall be eligible only for the  
10 purpose of adjusting a retail seller's baseline quantity of eligible  
11 renewable energy resources.

12 ~~(b) "Energy Commission" means the State Energy Resources~~  
13 ~~Conservation and Development Commission.~~

14 (c) "Retail seller" means an entity engaged in the retail sale of  
15 electricity to end-use customers, including any of the following:

16 (1) An electrical corporation, as defined in Section 218.

17 (2) A community choice aggregator. The commission shall  
18 institute a rulemaking to determine the manner in which a  
19 community choice aggregator will participate in the renewables  
20 portfolio standard subject to the same terms and conditions  
21 applicable to an electrical corporation.

22 (3) An electric service provider, as defined in Section 218.3  
23 subject to the following conditions:

24 (A) An electric service provider shall be considered a retail  
25 seller under this article for sales to any customer acquiring  
26 service after January 1, 2003.

27 (B) An electric service provider shall be considered a retail  
28 seller under this article for sales to all its customers beginning on  
29 the earlier of January 1, 2006, or the date on which a contract  
30 between an electric service provider and a retail customer  
31 expires. Nothing in this subdivision may require an electric  
32 service provider to disclose the terms of the contract to the  
33 commission.

34 (C) The commission shall institute a rulemaking to determine  
35 the manner in which electric service providers will participate in  
36 the renewables portfolio standard. The electric service provider  
37 shall be subject to the same terms and conditions applicable to an  
38 electrical corporation pursuant to this article. Nothing in this  
39 paragraph shall impair a contract entered into between an electric  
40 service provider and a retail customer prior to the suspension of



1 direct access by the commission pursuant to Section 80110 of the  
2 Water Code.

3 (4) “Retail seller” does not include any of the following:

4 (A) A corporation or person employing cogeneration  
5 technology or producing power consistent with subdivision (b) of  
6 Section 218.

7 (B) The Department of Water Resources, *or its successor*,  
8 acting in its capacity pursuant to Division 27 (commencing with  
9 Section 80000) of the Water Code.

10 (C) A local publicly owned electrical utility as defined in  
11 subdivision (d) of Section 9604.

12 (d) “Renewables portfolio standard” means the specified  
13 percentage of electricity generated by eligible renewable energy  
14 resources that a retail seller is required to procure pursuant to  
15 Sections 399.13 and 399.15.

16 *SEC. 246. Section 399.13 of the Public Utilities Code is*  
17 *amended to read:*

18 399.13. ~~The Energy Commission~~ *department* shall do all of  
19 the following:

20 (a) Certify eligible renewable energy resources that it  
21 determines meet the criteria described in subdivision (a) of  
22 Section 399.12.

23 (b) Design and implement an accounting system to verify  
24 compliance with the renewables portfolio standard by retail  
25 sellers, to ensure that renewable energy output is counted only  
26 once for the purpose of meeting the renewables portfolio  
27 standard of this state or any other state, and for verifying retail  
28 product claims in this state or any other state. In establishing the  
29 guidelines governing this system, ~~the Energy Commission~~  
30 *department* shall collect data from electricity market participants  
31 that it deems necessary to verify compliance of retail sellers, in  
32 accordance with the requirements of this article and the  
33 California Public Records Act (Chapter 3.5 (commencing with  
34 Section 6250) of Division 7 of Title 1 of the Government Code).  
35 In seeking data from electrical corporations, ~~the Energy~~  
36 ~~Commission~~ *department* shall request data from the commission.  
37 The commission shall collect data from electrical corporations  
38 and remit the data to ~~the Energy Commission~~ *department* within  
39 90 days of the request.



(c) Allocate and award supplemental energy payments pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code, to eligible renewable energy resources to cover above-market costs of renewable energy.

*SEC. 247. Section 399.15 of the Public Utilities Code is amended to read:*

399.15. (a) In order to fulfill unmet long-term resource needs, the commission shall establish a renewables portfolio standard requiring all electrical corporations to procure a minimum quantity of output from eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each calendar year, if sufficient funds are made available pursuant to paragraph (2), and Section 399.6 and Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code, to cover the above-market costs of eligible renewables, and subject to all of the following:

(1) An electric corporation shall not be required to enter into long-term contracts with eligible renewable energy resources that exceed the market prices established pursuant to subdivision (c) of this section.

(2) ~~The Energy Commission~~ *department* shall provide supplemental energy payments from funds in the New Renewable Resources Account in the Renewable Resource Trust Fund to eligible renewable energy resources pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code, consistent with this article, for above-market costs. Indirect costs associated with the purchase of eligible renewable energy resources, such as imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades shall not be eligible for supplemental energy payments, but shall be recoverable by an electrical corporation in rates, as authorized by the commission.

(3) For purposes of setting annual procurement targets, the commission shall establish an initial baseline for each electrical corporation based on the actual percentage of retail sales procured from eligible renewable energy resources in 2001, and, to the extent applicable, adjusted going forward pursuant to subdivision (a) of Section 399.12.



(b) The commission shall implement annual procurement targets for each electrical corporation as follows:

(1) Beginning on January 1, 2003, each electrical corporation shall, pursuant to subdivision (a), increase its total procurement of eligible renewable energy resources by at least an additional 1 percent of retail sales per year so that 20 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2017. An electrical corporation with 20 percent of retail sales procured from eligible renewable energy resources in any year shall not be required to increase its procurement of ~~such~~ *eligible renewable energy* resources in the following year.

(2) Only for purposes of establishing these targets, the commission shall include all power sold to retail customers by the Department of Water Resources, *or its successor*, pursuant to Section 80100 of the Water Code in the calculation of retail sales by an electrical corporation.

(3) In the event that an electrical corporation fails to procure sufficient eligible renewable energy resources in a given year to meet any annual target established pursuant to this subdivision, the electrical corporation shall procure additional eligible renewable energy resources in subsequent years to compensate for the shortfall if sufficient funds are made available pursuant to paragraph (2), and Section 399.6 and Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code, to cover the above-market costs of eligible renewables.

(4) If supplemental energy payments from the ~~Energy Commission~~ *department*, in combination with the market prices approved by the commission, are insufficient to cover the above-market costs of eligible renewable energy resources, the commission shall allow an electrical corporation to limit its annual procurement obligation to the quantity of eligible renewable energy resources that can be procured with available supplemental energy payments.

(c) The commission shall establish a methodology to determine the market price of electricity for terms corresponding to the length of contracts with renewable generators, in consideration of the following:



1 (1) The long-term market price of electricity for fixed price  
2 contracts, determined pursuant to the electrical corporation's  
3 general procurement activities as authorized by the commission.

4 (2) The long-term ownership, operating, and fixed-price fuel  
5 costs associated with fixed-price electricity from new generating  
6 facilities.

7 (3) The value of different products including baseload,  
8 peaking, and as-available output.

9 (d) The establishment of a renewables portfolio standard shall  
10 not constitute implementation by the commission of the federal  
11 Public Utility Regulatory Policies Act of 1978 (Public Law  
12 95-617).

13 (e) The commission shall consult with the ~~Energy Commission~~  
14 *department* in calculating market prices under subdivision (c)  
15 and establishing other renewables portfolio standard policies.

16 *SEC. 248. Section 399.16 of the Public Utilities Code is*  
17 *amended to read:*

18 399.16. The ~~Energy Commission~~ *department* may consider an  
19 electric generating facility that is located outside the state to be  
20 an eligible renewable energy resource if it meets the criteria  
21 described in Section 399.12 and all of the following  
22 requirements:

23 (a) It is located so that it is, or will be, connected to the  
24 Western Electricity Coordinating Council (WECC) transmission  
25 system.

26 (b) It is developed with guaranteed contracts to sell its  
27 generation, and demonstrates delivery of energy, to a retail seller  
28 or the Independent System Operator.

29 (c) It participates in the accounting system to verify  
30 compliance with the renewables portfolio standard by retail  
31 sellers, once established by the ~~Energy Commission~~ *department*  
32 pursuant to subdivision (b) of Section 399.13.

33 *SEC. 249. Section 454.5 of the Public Utilities Code, as*  
34 *added by Section 2 of Chapter 835 of the Statutes of 2002, is*  
35 *repealed.*

36 ~~454.5. (a) The commission shall specify the allocation of~~  
37 ~~electricity, including quantity, characteristics, and duration of~~  
38 ~~electricity delivery, that the Department of Water Resources shall~~  
39 ~~provide under its power purchase agreements to the customers of~~  
40 ~~each electrical corporation, which shall be reflected in the~~



1 ~~electrical corporation's proposed procurement plan. Each~~  
2 ~~electrical corporation shall file a proposed procurement plan with~~  
3 ~~the commission not later than 60 days after the commission~~  
4 ~~specifies the allocation of electricity. The proposed procurement~~  
5 ~~plan shall specify the date that the electrical corporation intends~~  
6 ~~to resume procurement of electricity for its retail customers,~~  
7 ~~consistent with its obligation to serve. After the commission's~~  
8 ~~adoption of a procurement plan, the commission shall allow not~~  
9 ~~less than 90 days before the electrical corporation resumes~~  
10 ~~procurement pursuant to this section.~~

11 ~~(b) An electrical corporation's proposed procurement plan~~  
12 ~~shall include, but not be limited to, all of the following:~~

13 ~~(1) An assessment of the price risk associated with the~~  
14 ~~electrical corporation's portfolio, including any utility-retained~~  
15 ~~generation, existing power purchase and exchange contracts, and~~  
16 ~~proposed contracts or purchases under which an electrical~~  
17 ~~corporation will procure electricity, electricity demand~~  
18 ~~reductions, and electricity-related products and the remaining~~  
19 ~~open position to be served by spot market transactions.~~

20 ~~(2) A definition of each electricity product, electricity-related~~  
21 ~~product, and procurement related financial product, including~~  
22 ~~support and justification for the product type and amount to be~~  
23 ~~procured under the plan.~~

24 ~~(3) The duration of the plan.~~

25 ~~(4) The duration, timing, and range of quantities of each~~  
26 ~~product to be procured.~~

27 ~~(5) A competitive procurement process under which the~~  
28 ~~electrical corporation may request bids for procurement-related~~  
29 ~~services, including the format and criteria of that procurement~~  
30 ~~process.~~

31 ~~(6) An incentive mechanism, if any incentive mechanism is~~  
32 ~~proposed, including the type of transactions to be covered by that~~  
33 ~~mechanism, their respective procurement benchmarks, and other~~  
34 ~~parameters needed to determine the sharing of risks and benefits.~~

35 ~~(7) The upfront standards and criteria by which the~~  
36 ~~acceptability and eligibility for rate recovery of a proposed~~  
37 ~~procurement transaction will be known by the electrical~~  
38 ~~corporation prior to execution of the transaction. This shall~~  
39 ~~include an expedited approval process for the commission's~~  
40 ~~review of proposed contracts and subsequent approval or~~



1 ~~rejection thereof. The electrical corporation shall propose~~  
2 ~~alternative procurement choices in the event a contract is~~  
3 ~~rejected.~~

4 ~~(8) Procedures for updating the procurement plan.~~

5 ~~(9) A showing that the procurement plan will achieve the~~  
6 ~~following:~~

7 ~~(A) The electrical corporation will, in order to fulfill its unmet~~  
8 ~~resource needs and in furtherance of Section 701.3, until a 20~~  
9 ~~percent renewable resources portfolio is achieved, procure~~  
10 ~~renewable energy resources with the goal of ensuring that at least~~  
11 ~~an additional 1 percent per year of the electricity sold by the~~  
12 ~~electrical corporation is generated from renewable energy~~  
13 ~~resources, provided sufficient funds are made available pursuant~~  
14 ~~to Section 399.6, to cover the above-market costs for new~~  
15 ~~renewable energy resources.~~

16 ~~(B) The electrical corporation will create or maintain a~~  
17 ~~diversified procurement portfolio consisting of both short-term~~  
18 ~~and long-term electricity and electricity-related and demand~~  
19 ~~reductions products.~~

20 ~~(10) The electrical corporation's risk management policy,~~  
21 ~~strategy, and practices, including specific measures of price~~  
22 ~~stability.~~

23 ~~(11) A plan to achieve appropriate increases in diversity of~~  
24 ~~ownership and diversity of fuel supply of nonutility electrical~~  
25 ~~generation.~~

26 ~~(12) A mechanism for recovery of reasonable administrative~~  
27 ~~costs related to procurement in the generation component of~~  
28 ~~rates.~~

29 ~~(e) The commission shall review and accept, modify, or reject~~  
30 ~~each electrical corporation's procurement plan. The~~  
31 ~~commission's review shall consider each electrical corporation's~~  
32 ~~individual procurement situation, and shall give strong~~  
33 ~~consideration to that situation in determining which one or more~~  
34 ~~of the features set forth in this subdivision shall apply to that~~  
35 ~~electrical corporation. A procurement plan approved by the~~  
36 ~~commission shall contain one or more of the following features,~~  
37 ~~provided that the commission may not approve a feature or~~  
38 ~~mechanism for an electrical corporation if it finds that the feature~~  
39 ~~or mechanism would impair the restoration of an electrical~~



corporation's creditworthiness or would lead to a deterioration of an electrical corporation's creditworthiness:

(1) ~~A competitive procurement process under which the electrical corporation may request bids for procurement-related services. The commission shall specify the format of that procurement process, as well as criteria to ensure that the auction process is open and adequately subscribed. Any purchases made in compliance with the commission-authorized process shall be recovered in the generation component of rates.~~

(2) ~~An incentive mechanism that establishes a procurement benchmark or benchmarks and authorizes the electrical corporation to procure from the market, subject to comparing the electrical corporation's performance to the commission-authorized benchmark or benchmarks. The incentive mechanism shall be clear, achievable, and contain quantifiable objectives and standards. The incentive mechanism shall contain balanced risk and reward incentives that limit the risk and reward of an electrical corporation.~~

(3) ~~Upfront achievable standards and criteria by which the acceptability and eligibility for rate recovery of a proposed procurement transaction will be known by the electrical corporation prior to the execution of the bilateral contract for the transaction. The commission shall provide for expedited review and either approve or reject the individual contracts submitted by the electrical corporation to ensure compliance with its procurement plan. To the extent the commission rejects a proposed contract pursuant to this criteria, the commission shall designate alternative procurement choices obtained in the procurement plan that will be recoverable for ratemaking purposes.~~

(d) ~~A procurement plan approved by the commission shall accomplish each of the following objectives:~~

(1) ~~Enable the electrical corporation to fulfill its obligation to serve its customers at just and reasonable rates.~~

(2) ~~Eliminate the need for after-the-fact reasonableness reviews of an electrical corporation's actions in compliance with an approved procurement plan, including resulting electricity procurement contracts, practices, and related expenses. However, the commission may establish a regulatory process to verify and assure that each contract was administered in accordance with the~~



1 terms of the contract, and contract disputes which may arise are  
2 reasonably resolved.

3 ~~(3) Ensure timely recovery of prospective procurement costs~~  
4 ~~incurred pursuant to an approved procurement plan. The~~  
5 ~~commission shall establish rates based on forecasts of~~  
6 ~~procurement costs adopted by the commission, actual~~  
7 ~~procurement costs incurred, or combination thereof, as~~  
8 ~~determined by the commission. The commission shall establish~~  
9 ~~power procurement balancing accounts to track the differences~~  
10 ~~between recorded revenues and costs incurred pursuant to an~~  
11 ~~approved procurement plan. The commission shall review the~~  
12 ~~power procurement balancing accounts, not less than~~  
13 ~~semiannually, and shall adjust rates or order refunds, as~~  
14 ~~necessary, to promptly amortize a balancing account, according~~  
15 ~~to a schedule determined by the commission. Until January 1,~~  
16 ~~2006, the commission shall ensure that any overcollection or~~  
17 ~~undercollection in the power procurement balancing account~~  
18 ~~does not exceed 5 percent of the electrical corporation's actual~~  
19 ~~recorded generation revenues for the prior calendar year~~  
20 ~~excluding revenues collected for the Department of Water~~  
21 ~~Resources. The commission shall determine the schedule for~~  
22 ~~amortizing the overcollection or undercollection in the balancing~~  
23 ~~account to ensure that the 5 percent threshold is not exceeded.~~  
24 ~~After January 1, 2006, this adjustment shall occur when deemed~~  
25 ~~appropriate by the commission consistent with the objectives of~~  
26 ~~this section.~~

27 ~~(4) Moderate the price risk associated with serving its retail~~  
28 ~~customers, including the price risk embedded in its long-term~~  
29 ~~supply contracts, by authorizing an electrical corporation to enter~~  
30 ~~into financial and other electricity-related product contracts.~~

31 ~~(5) Provide for just and reasonable rates, with an appropriate~~  
32 ~~balancing of price stability and price level in the electrical~~  
33 ~~corporation's procurement plan.~~

34 ~~(e) The commission shall provide for the periodic review and~~  
35 ~~prospective modification of an electrical corporation's~~  
36 ~~procurement plan.~~

37 ~~(f) The commission may engage an independent consultant or~~  
38 ~~advisory service to evaluate risk management and strategy. The~~  
39 ~~reasonable costs of any consultant or advisory service is a~~



1 reimbursable expense and eligible for funding pursuant to  
2 Section 631.

3 (g) The commission shall adopt appropriate procedures to  
4 ensure the confidentiality of any market sensitive information  
5 submitted in an electrical corporation's proposed procurement  
6 plan or resulting from or related to its approved procurement  
7 plan, including, but not limited to, proposed or executed power  
8 purchase agreements, data request responses, or consultant  
9 reports, or any combination, provided that the Office of  
10 Ratepayer Advocates and other consumer groups that are  
11 nonmarket participants shall be provided access to this  
12 information under confidentiality procedures authorized by the  
13 commission.

14 (h) Nothing in this section alters, modifies, or amends the  
15 commission's oversight of affiliate transactions under its rules  
16 and decisions or the commission's existing authority to  
17 investigate and penalize an electrical corporation's alleged  
18 fraudulent activities, or to disallow costs incurred as a result of  
19 gross incompetence, fraud, abuse, or similar grounds. Nothing in  
20 this section expands, modifies, or limits the State Energy  
21 Resources Conservation and Development Commission's  
22 existing authority and responsibilities as set forth in Sections  
23 25216, 25216.5, and 25323 of the Public Resources Code.

24 (i) An electrical corporation that serves less than 500,000  
25 electric retail customers within the state may file with the  
26 commission a request for exemption from this section, which the  
27 commission shall grant upon a showing of good cause.

28 (j) (1) Prior to its approval pursuant to Section 851 of any  
29 divestiture of generation assets owned by an electrical  
30 corporation on or after the date of enactment of the act adding  
31 this section, the commission shall determine the impact of the  
32 proposed divestiture on the electrical corporation's procurement  
33 rates and shall approve a divestiture only to the extent it finds,  
34 taking into account the effect of the divestiture on procurement  
35 rates, that the divestiture is in the public interest and will result in  
36 net ratepayer benefits.

37 (2) Any electrical corporation's procurement necessitated as a  
38 result of the divestiture of generation assets on or after the  
39 effective date of the act adding this subdivision shall be subject  
40 to the mechanisms and procedures set forth in this section only if



1 its actual cost is less than the recent historical cost of the divested  
2 generation assets.

3 ~~(3) Notwithstanding paragraph (2), the commission may deem~~  
4 ~~proposed procurement eligible to use the procedures in this~~  
5 ~~section upon its approval of asset divestiture pursuant to Section~~  
6 ~~851.~~

7 *SEC. 250. Section 454.5 of the Public Utilities Code, as*  
8 *added by Section 3 of Chapter 850 of the Statutes of 2002, is*  
9 *amended to read:*

10 454.5. (a) The commission shall specify the allocation of  
11 electricity, including quantity, characteristics, and duration of  
12 electricity delivery, that the Department of Water Resources, *or*  
13 *its successor*, shall provide under its power purchase agreements  
14 to the customers of each electrical corporation, which shall be  
15 reflected in the electrical corporation's proposed procurement  
16 plan. Each electrical corporation shall file a proposed  
17 procurement plan with the commission not later than 60 days  
18 after the commission specifies the allocation of electricity. The  
19 proposed procurement plan shall specify the date that the  
20 electrical corporation intends to resume procurement of  
21 electricity for its retail customers, consistent with its obligation to  
22 serve. After the commission's adoption of a procurement plan,  
23 the commission shall allow not less than 60 days before the  
24 electrical corporation resumes procurement pursuant to this  
25 section.

26 (b) An electrical corporation's proposed procurement plan  
27 shall include, but not be limited to, all of the following:

28 (1) An assessment of the price risk associated with the  
29 electrical corporation's portfolio, including any utility-retained  
30 generation, existing power purchase and exchange contracts, and  
31 proposed contracts or purchases under which an electrical  
32 corporation will procure electricity, electricity demand  
33 reductions, and electricity-related products and the remaining  
34 open position to be served by spot market transactions.

35 (2) A definition of each electricity product, electricity-related  
36 product, and procurement related financial product, including  
37 support and justification for the product type and amount to be  
38 procured under the plan.

39 (3) The duration of the plan.



1 (4) The duration, timing, and range of quantities of each  
2 product to be procured.

3 (5) A competitive procurement process under which the  
4 electrical corporation may request bids for procurement-related  
5 services, including the format and criteria of that procurement  
6 process.

7 (6) An incentive mechanism, if any incentive mechanism is  
8 proposed, including the type of transactions to be covered by that  
9 mechanism, their respective procurement benchmarks, and other  
10 parameters needed to determine the sharing of risks and benefits.

11 (7) The upfront standards and criteria by which the  
12 acceptability and eligibility for rate recovery of a proposed  
13 procurement transaction will be known by the electrical  
14 corporation prior to execution of the transaction. This shall  
15 include an expedited approval process for the commission's  
16 review of proposed contracts and subsequent approval or  
17 rejection thereof. The electrical corporation shall propose  
18 alternative procurement choices in the event a contract is  
19 rejected.

20 (8) Procedures for updating the procurement plan.

21 (9) A showing that the procurement plan will achieve the  
22 following:

23 (A) The electrical corporation will, in order to fulfill its unmet  
24 resource needs and in furtherance of Section 701.3, until a 20  
25 percent renewable resources portfolio is achieved, procure  
26 renewable energy resources with the goal of ensuring that at least  
27 an additional 1 percent per year of the electricity sold by the  
28 electrical corporation is generated from renewable energy  
29 resources, provided sufficient funds are made available pursuant  
30 to Section 399.6, to cover the above-market costs for new  
31 renewable energy resources.

32 (B) The electrical corporation will create or maintain a  
33 diversified procurement portfolio consisting of both short-term  
34 and long-term electricity and electricity-related and demand  
35 reductions products.

36 (10) The electrical corporation's risk management policy,  
37 strategy, and practices, including specific measures of price  
38 stability.



1 (11) A plan to achieve appropriate increases in diversity of  
2 ownership and diversity of fuel supply of nonutility electrical  
3 generation.

4 (12) A mechanism for recovery of reasonable administrative  
5 costs related to procurement in the generation component of  
6 rates.

7 (c) The commission shall review and accept, modify, or reject  
8 each electrical corporation's procurement plan. The  
9 commission's review shall consider each electrical corporation's  
10 individual procurement situation, and shall give strong  
11 consideration to that situation in determining which one or more  
12 of the features set forth in this subdivision shall apply to that  
13 electrical corporation. A procurement plan approved by the  
14 commission shall contain one or more of the following features,  
15 provided that the commission may not approve a feature or  
16 mechanism for an electrical corporation if it finds that the feature  
17 or mechanism would impair the restoration of an electrical  
18 corporation's creditworthiness or would lead to a deterioration of  
19 an electrical corporation's creditworthiness:

20 (1) A competitive procurement process under which the  
21 electrical corporation may request bids for procurement-related  
22 services. The commission shall specify the format of that  
23 procurement process, as well as criteria to ensure that the auction  
24 process is open and adequately subscribed. Any purchases made  
25 in compliance with the commission-authorized process shall be  
26 recovered in the generation component of rates.

27 (2) An incentive mechanism that establishes a procurement  
28 benchmark or benchmarks and authorizes the electrical  
29 corporation to procure from the market, subject to comparing the  
30 electrical corporation's performance to the  
31 commission-authorized benchmark or benchmarks. The incentive  
32 mechanism shall be clear, achievable, and contain quantifiable  
33 objectives and standards. The incentive mechanism shall contain  
34 balanced risk and reward incentives that limit the risk and reward  
35 of an electrical corporation.

36 (3) Upfront achievable standards and criteria by which the  
37 acceptability and eligibility for rate recovery of a proposed  
38 procurement transaction will be known by the electrical  
39 corporation prior to the execution of the bilateral contract for the  
40 transaction. The commission shall provide for expedited review



1 and either approve or reject the individual contracts submitted by  
2 the electrical corporation to ensure compliance with its  
3 procurement plan. To the extent the commission rejects a  
4 proposed contract pursuant to this criteria, the commission shall  
5 designate alternative procurement choices obtained in the  
6 procurement plan that will be recoverable for ratemaking  
7 purposes.

8 (d) A procurement plan approved by the commission shall  
9 accomplish each of the following objectives:

10 (1) Enable the electrical corporation to fulfill its obligation to  
11 serve its customers at just and reasonable rates.

12 (2) Eliminate the need for after-the-fact reasonableness  
13 reviews of an electrical corporation's actions in compliance with  
14 an approved procurement plan, including resulting electricity  
15 procurement contracts, practices, and related expenses. However,  
16 the commission may establish a regulatory process to verify and  
17 assure that each contract was administered in accordance with the  
18 terms of the contract, and contract disputes which may arise are  
19 reasonably resolved.

20 (3) Ensure timely recovery of prospective procurement costs  
21 incurred pursuant to an approved procurement plan. The  
22 commission shall establish rates based on forecasts of  
23 procurement costs adopted by the commission, actual  
24 procurement costs incurred, or combination thereof, as  
25 determined by the commission. The commission shall establish  
26 power procurement balancing accounts to track the differences  
27 between recorded revenues and costs incurred pursuant to an  
28 approved procurement plan. The commission shall review the  
29 power procurement balancing accounts, not less than  
30 semiannually, and shall adjust rates or order refunds, as  
31 necessary, to promptly amortize a balancing account, according  
32 to a schedule determined by the commission. Until January 1,  
33 2006, the commission shall ensure that any overcollection or  
34 undercollection in the power procurement balancing account  
35 does not exceed 5 percent of the electrical corporation's actual  
36 recorded generation revenues for the prior calendar year  
37 excluding revenues collected for the Department of Water  
38 Resources, *or its successor*. The commission shall determine the  
39 schedule for amortizing the overcollection or undercollection in  
40 the balancing account to ensure that the 5-percent threshold is not



1 exceeded. After January 1, 2006, this adjustment shall occur  
2 when deemed appropriate by the commission consistent with the  
3 objectives of this section.

4 (4) Moderate the price risk associated with serving its retail  
5 customers, including the price risk embedded in its long-term  
6 supply contracts, by authorizing an electrical corporation to enter  
7 into financial and other electricity-related product contracts.

8 (5) Provide for just and reasonable rates, with an appropriate  
9 balancing of price stability and price level in the electrical  
10 corporation's procurement plan.

11 (e) The commission shall provide for the periodic review and  
12 prospective modification of an electrical corporation's  
13 procurement plan.

14 (f) The commission may engage an independent consultant or  
15 advisory service to evaluate risk management and strategy. The  
16 reasonable costs of any consultant or advisory service is a  
17 reimbursable expense and eligible for funding pursuant to  
18 Section 631.

19 (g) The commission shall adopt appropriate procedures to  
20 ensure the confidentiality of any market sensitive information  
21 submitted in an electrical corporation's proposed procurement  
22 plan or resulting from or related to its approved procurement  
23 plan, including, but not limited to, proposed or executed power  
24 purchase agreements, data request responses, or consultant  
25 reports, or any combination, provided that the Office of  
26 Ratepayer Advocates and other consumer groups that are  
27 nonmarket participants shall be provided access to this  
28 information under confidentiality procedures authorized by the  
29 commission.

30 (h) Nothing in this section alters, modifies, or amends the  
31 commission's oversight of affiliate transactions under its rules  
32 and decisions or the commission's existing authority to  
33 investigate and penalize an electrical corporation's alleged  
34 fraudulent activities, or to disallow costs incurred as a result of  
35 gross incompetence, fraud, abuse, or similar grounds. Nothing in  
36 this section expands, modifies, or limits the ~~State Energy~~  
37 ~~Resources Conservation and Development Commission's~~  
38 *Department of Energy's* existing authority and responsibilities as  
39 set forth in Sections 25216, 25216.5, and 25323 of the Public  
40 Resources Code.



(i) An electrical corporation that serves less than 500,000 electric retail customers within the state may file with the commission a request for exemption from this section, which the commission shall grant upon a showing of good cause.

(j) (1) Prior to its approval pursuant to Section 851 of any divestiture of generation assets owned by an electrical corporation on or after the date of enactment of the act adding this section, the commission shall determine the impact of the proposed divestiture on the electrical corporation's procurement rates and shall approve a divestiture only to the extent it finds, taking into account the effect of the divestiture on procurement rates, that the divestiture is in the public interest and will result in net ratepayer benefits.

(2) Any electrical corporation's procurement necessitated as a result of the divestiture of generation assets on or after the effective date of the act adding this subdivision shall be subject to the mechanisms and procedures set forth in this section only if its actual cost is less than the recent historical cost of the divested generation assets.

(3) Notwithstanding paragraph (2), the commission may deem proposed procurement eligible to use the procedures in this section upon its approval of asset divestiture pursuant to Section 851.

*SEC. 251. Section 464 of the Public Utilities Code is amended to read:*

464. (a) Reasonable expenditures by transmission owners that are electrical corporations to plan, design, and engineer reconfiguration, replacement, or expansion of transmission facilities are in the public interest and are deemed prudent if made for the purpose of facilitating competition in electric generation markets, ensuring open access and comparable service, or maintaining or enhancing reliability, whether or not these expenditures are for transmission facilities that become operational.

(b) The commission and the ~~Electricity Oversight Board~~ *Office of Energy Market Oversight in the Department of Energy* shall jointly facilitate the efforts of the state's transmission owning electrical corporations to obtain authorization from the Federal Energy Regulatory Commission to recover reasonable expenditures made for the purposes stated in subdivision (a).



(c) Nothing in this section alters or affects the recovery of the reasonable costs of other electric facilities in rates pursuant to the commission's existing ratemaking authority under this code or pursuant to the Federal Power Act (41-Stat. Stats. 1063; 16 U.S.C. Secs. 791a; et seq.). The commission may periodically review and adjust depreciation schedules and rates authorized for an electric plant that is under the jurisdiction of the commission and owned by an electrical corporation and periodically review and adjust depreciation schedules and rates authorized for a gas plant that is under the jurisdiction of the commission and owned by a gas corporation, consistent with this code.

*SEC. 252. Section 848.1 of the Public Utilities Code is amended to read:*

848.1. (a) No later than 120 days after the effective date of this article, and from time to time thereafter, the recovery corporation shall apply to the commission for a determination that some or all of the recovery corporation's recovery costs may be recovered through fixed recovery amounts, which would be recovery property under this article, and that any portion of the recovery corporation's federal and State of California income and franchise taxes associated with those fixed recovery amounts and not financed from proceeds of recovery bonds be recovered through fixed recovery tax amounts. The recovery corporation may request this determination by the commission in a separate proceeding or in an existing proceeding, or both. The recovery corporation shall in its application specify that consumers within its service territory would benefit from reduced rates on a present value basis through the issuance of recovery bonds. The commission shall designate fixed recovery amounts and any associated fixed recovery tax amounts as recoverable in one or more financing orders if the commission determines, as part of its findings in connection with the financing order, that the designation of the fixed recovery amounts and any associated fixed recovery tax amounts, and the issuance of recovery bonds in connection with fixed recovery amounts, would reduce the rates on a present value basis that consumers within the recovery corporation's service territory would pay if the financing order were not adopted. Fixed recovery amounts and any associated fixed recovery tax amounts shall only be imposed on existing and future consumers in the service territory. Consumers within the



1 service territory shall continue to pay fixed recovery amounts and  
2 any associated fixed tax recovery amounts until the recovery  
3 bonds are paid in full by the financing entity. Once the recovery  
4 bonds have been paid in full, the payment by consumers of fixed  
5 recovery amounts and fixed recovery tax amounts shall  
6 terminate.

7 (b) The commission shall establish an effective mechanism  
8 that ensures recovery of recovery costs through fixed recovery  
9 amounts and any associated fixed recovery tax amounts from  
10 existing and future consumers in the service territory, provided  
11 that the costs shall not be recoverable from any of the following:

12 (1) New load or incremental load of an existing consumer of  
13 the recovery corporation where the load is being met through a  
14 direct transaction and the transaction does not require the use of  
15 transmission or distribution facilities owned by the recovery  
16 corporation.

17 (2) Customer Generation departing load that is exempt from  
18 Department of Water Resources power charges pursuant to the  
19 commission's Decision No. 03-04-030, as modified by Decision  
20 No. 03-04-041, and as clarified and affirmed by Decision No.  
21 03-05-039, except that the load shall pay the costs as a  
22 component of and in proportion to any purchase of electricity  
23 delivered by the recovery corporation under standby or other  
24 service made following its departure.

25 (3) The Department of Water Resources, with respect to the  
26 pumping, generation, and transmission facilities and operations  
27 of the State Water Resources Development System, except to the  
28 extent that system facilities receive electric service from the  
29 recovery corporation on or after December 19, 2003, under a  
30 commission approved tariff.

31 (4) Retail electric load, continuously served by a local publicly  
32 owned electric utility from January 1, 2000, through the effective  
33 date of the act adding this section.

34 (5) Load that thereafter comes to take electric service from a  
35 city where all the following conditions are met:

36 (A) The new load is from locations that never received electric  
37 service from the recovery corporation.

38 (B) The city owns and operates the local publicly owned  
39 electric utility.



1 (C) The local publicly owned electric utility served more than  
2 95 percent of the customers receiving electric service residing  
3 within the city limits prior to December 19, 2003.

4 (D) The city annexed the territory in which the load is located  
5 on or after December 19, 2003.

6 (E) Following annexation, the city provides all municipal  
7 services to the annexed territory that the city provides to other  
8 territory within the city limits, including electric service.

9 (F) The total load exempt from paying fixed recovery amounts  
10 and associated fixed recovery tax amounts pursuant to  
11 subparagraphs (A) through (D), inclusive, does not exceed 50  
12 megawatts, as determined by the commission, and any load  
13 above the 50-megawatt exemption amount shall be responsible  
14 for paying recovery amounts and associated fixed recovery tax  
15 amounts, except as provided in subdivision (c).

16 (c) Except as provided in paragraphs (4) and (5) of subdivision  
17 (b), the commission shall determine the extent to which fixed  
18 recovery amounts and any associated fixed recovery tax amounts  
19 are recoverable from new municipal load, consistent with the  
20 commission's determination in the limited rehearing granted in  
21 Decision 03-08-076. The determination of the commission shall  
22 be made on the earlier of the date it adopts a financing order or  
23 December 31, 2004.

24 (d) Except as provided in paragraphs (4) and (5) of subdivision  
25 (b) and in subdivision (c), the obligation to pay fixed recovery  
26 amounts and any associated fixed recovery tax amounts cannot  
27 be avoided by the formation of a local publicly owned electric  
28 utility on or after December 19, 2003, or by annexation of any  
29 portion of the service territory of the recovery corporation by an  
30 existing local publicly owned electric utility.

31 (e) Recovery bonds authorized by the commission's financing  
32 orders may be issued in one or more series on or before  
33 December 31, 2006.

34 (f) The commission may issue financing orders in accordance  
35 with this article to facilitate the recovery, financing, or  
36 refinancing of recovery costs. A financing order may be adopted  
37 only upon the application of the recovery corporation and shall  
38 become effective in accordance with its terms only after the  
39 recovery corporation files with the commission the recovery  
40 corporation's written consent to all terms and conditions of the



1 financing order. A financing order may specify how amounts  
2 collected from a consumer shall be allocated between fixed  
3 recovery amounts, any associated fixed recovery tax amounts,  
4 and other charges.

5 (g) Notwithstanding Section 455.5 or 1708, or any other  
6 provision of law, except as otherwise provided in Section 848.7  
7 or in this subdivision with respect to recovery property that has  
8 been made the basis for the issuance of recovery bonds and with  
9 respect to any associated fixed recovery tax amounts, the  
10 financing order, the fixed recovery amounts and any associated  
11 fixed recovery tax amounts shall be irrevocable, and the  
12 commission shall not have authority either by rescinding,  
13 altering, or amending the financing order or otherwise, to revalue  
14 or revise for ratemaking purposes, the recovery costs or the costs  
15 of recovering, financing, or refinancing the recovery costs,  
16 determine that the fixed recovery amounts, any associated fixed  
17 recovery tax amounts or rates are unjust or unreasonable, or in  
18 any way reduce or impair the value of recovery property or of the  
19 right to receive any associated fixed recovery tax amounts either  
20 directly or indirectly by taking fixed recovery amounts or any  
21 associated fixed recovery tax amounts into account when setting  
22 other rates for the recovery corporation or when setting charges  
23 for the Department of Water Resources, *or its successor, the*  
24 *Department of Energy*; nor shall the amount of revenues arising  
25 with respect thereto be subject to reduction, impairment,  
26 postponement, or termination. Except as otherwise provided in  
27 this subdivision, the State of California does hereby pledge and  
28 agree with the recovery corporation, owners of recovery  
29 property, and holders of recovery bonds that the state shall  
30 neither limit nor alter the fixed recovery amounts, any associated  
31 fixed recovery tax amounts, recovery property, financing orders,  
32 or any rights thereunder until the recovery bonds, together with  
33 the interest thereon, are fully paid and discharged, and any  
34 associated fixed recovery tax amounts have been satisfied or, in  
35 the alternative, have been refinanced through an additional issue  
36 of recovery bonds; provided nothing contained in this section  
37 shall preclude the limitation or alteration if and when adequate  
38 provision shall be made by law for the protection of the recovery  
39 corporation, owners, and holders. The financing entity is  
40 authorized to include this pledge and undertaking for the state in



1 these recovery bonds. Notwithstanding any other provision of  
2 this section, the commission shall approve adjustments to the  
3 fixed recovery amounts and any associated fixed recovery tax  
4 amounts as may be necessary to ensure timely recovery of all  
5 recovery costs that are the subject of the pertinent financing  
6 order, and the costs of capital associated with the recovery,  
7 financing, or refinancing thereof, including servicing and retiring  
8 the recovery bonds contemplated by the financing order. When  
9 setting other rates for the recovery corporation, nothing in this  
10 subdivision shall prevent the commission from taking into  
11 account either of the following:

12 (1) Any collection of fixed recovery amounts in excess of  
13 amounts actually required to pay recovery costs financed or  
14 refinanced by recovery bonds.

15 (2) Any collection of fixed recovery tax amounts in excess of  
16 amounts actually required to pay federal and State of California  
17 income and franchise taxes associated with fixed recovery  
18 amounts; provided that this would not result in a  
19 recharacterization of the tax, accounting, and other intended  
20 characteristics of the financing, including, but not limited to,  
21 either of the following:

22 (A) Treating the recovery bonds as debt of the recovery  
23 corporation or its affiliates for federal income tax purposes.

24 (B) Treating the transfer of the recovery property by the  
25 recovery corporation as a true sale for bankruptcy purposes.

26 (h) (1) Financing orders issued under this article do not  
27 constitute a debt or liability of the state or of any political  
28 subdivision thereof, and do not constitute a pledge of the full  
29 faith and credit of the state or any of its political subdivisions, but  
30 are payable solely from the funds provided therefor under this  
31 article and shall be consistent with Sections 1 and 18 of Article  
32 XVI of the California Constitution. This subdivision shall in no  
33 way preclude bond guarantees or enhancements pursuant to this  
34 article. All recovery bonds shall contain on the face thereof a  
35 statement to the following effect: "Neither the full faith and  
36 credit nor the taxing power of the State of California is pledged  
37 to the payment of the principal of, or interest on, this bond."

38 (2) The issuance of recovery bonds under this article shall not  
39 directly, indirectly, or contingently obligate the state or any



political subdivision thereof to levy or to pledge any form of taxation therefor or to make any appropriation for their payment.

(i) The commission shall establish procedures for the expeditious processing of applications for financing orders, including the approval or disapproval thereof within 120 days of the recovery corporation making application therefor. The commission shall provide in any financing order for a procedure for the expeditious approval by the commission of periodic adjustments to the fixed recovery amounts and any associated fixed recovery tax amounts that are the subject of the pertinent financing order, as required by subdivision (g). The procedure shall require the commission to determine whether the adjustments are required on each anniversary of the issuance of the financing order, and at the additional intervals as may be provided for in the financing order, and for the adjustments, if required, to be approved within 90 days of each anniversary of the issuance of the financing order, or of each additional interval provided for in the financing order.

(j) Fixed recovery amounts are recovery property when, and to the extent that, a financing order authorizing the fixed recovery amounts has become effective in accordance with this article, and the recovery property shall thereafter continuously exist as property for all purposes with all of the rights and privileges of this article for the period and to the extent provided in the financing order, but in any event until the recovery bonds are paid in full, including all principal, interest, premium, costs, and arrearages thereon.

(k) This article and any financing order made pursuant to this article do not amend, reduce, modify, or otherwise affect the right of the Department of Water Resources, *or its successor, the Department of Energy*, to recover its revenue requirements and to receive the charges that it is to recover and receive pursuant to Division 27 (commencing with Section 80000) of the Water Code, or pursuant to any agreement entered into by the commission and the ~~Department of Water Resources~~ *department* pursuant to that division.

*SEC. 253. Section 1001 of the Public Utilities Code is amended to read:*

1001. No railroad corporation whose railroad is operated primarily by electric energy, street railroad corporation, gas



1 corporation, electrical corporation, telegraph corporation,  
2 telephone corporation, water corporation, or sewer system  
3 corporation shall begin the construction of a street railroad, or of  
4 a line, plant, or system, or of any extension thereof, without  
5 having first obtained from the commission a certificate that the  
6 present or future public convenience and necessity require or will  
7 require ~~such~~ that construction.

8 This article shall not be construed to require any ~~such~~  
9 corporation *described in the preceding paragraph* to secure ~~such~~  
10 a certificate for an extension within any city or city and county  
11 within which it has theretofore lawfully commenced operations,  
12 or for an extension into territory either within or without a city or  
13 city and county contiguous to its street railroad, or line, plant, or  
14 system, and not theretofore served by a public utility of like  
15 character, or for an extension within or to territory already served  
16 by it, necessary in the ordinary course of its business. If any  
17 public utility, in constructing or extending its line, plant, or  
18 system, interferes or is about to interfere with the operation of the  
19 line, plant, or system of any other public utility or of the water  
20 system of a public agency, already constructed, the commission,  
21 on complaint of the public utility or public agency claiming to be  
22 injuriously affected, may, after hearing, make ~~such~~ an order and  
23 prescribe ~~such~~ terms and conditions for the location of the lines,  
24 plants, or systems affected as to it may seem just and reasonable.

25 *SEC. 254. Section 1001.1 is added to the Public Utilities*  
26 *Code, to read:*

27 1001.1. (a) Notwithstanding Section 1001 and except as  
28 provided in Section 1001.2, all responsibilities of the commission  
29 with respect to the certification of the present or future public  
30 convenience and necessity of an electric transmission line, plant,  
31 system, or any extension thereof, carrying electricity to the  
32 interconnected grid, or that is part of the interconnected grid, but  
33 not including electric distribution facilities, are hereby  
34 transferred to the exclusive jurisdiction of the Department of  
35 Energy. All applications for certification regarding a line,  
36 storage, facility, plant, system, or extension thereof, shall be  
37 heard and decided by the California Energy Commission within  
38 the department. A decision of the department or the California  
39 Energy Commission with respect to matters transferred pursuant



1 to this subdivision shall be conclusive as to all matters  
2 determined.

3 (b) For the purposes of this section, an electric line, plant,  
4 system, or extension thereof, shall be considered “electric  
5 transmission” for either of the following:

6 (1) It has a maximum rated voltage of 200 kilovolts or greater.

7 (2) It has a maximum rated voltage of 100 kilovolts or greater  
8 and certification is sought following inclusion of that facility as  
9 an element of a final transmission expansion plan for the  
10 Independent System Operator.

11 (c) Every electrical corporation submitting an application for a  
12 certificate pursuant to this section shall provide the California  
13 Energy Commission with the information specified in Sections  
14 1003, 1003.5, and 1004.

15 (d) In hearing and deciding an application pursuant to this  
16 section, the California Energy Commission shall give  
17 consideration to the factors in Sections 1002 and 1002.2, and any  
18 other provision of law, including the anticipated effects of any  
19 proposed project on consumer rates, on the environment, and on  
20 the public benefits expected to result from any project.

21 (e) The California Energy Commission may, with or without  
22 hearing, issue the certificate as requested, or refuse to issue it, or  
23 issue it for the construction of a portion only of the electric  
24 transmission line, plant, system, or any extension thereof, or for  
25 the partial exercise only of the right or privilege, and may attach  
26 to the exercise of the rights granted by the certificate those terms  
27 and conditions, including provisions for the acquisition by the  
28 public of the franchise or permit and all rights acquired  
29 thereunder and all works constructed or maintained by authority  
30 thereof, as in its judgment the public convenience and necessity  
31 require. However, upon timely application for a hearing by any  
32 person entitled to be heard, the California Energy Commission,  
33 before issuing or refusing to issue the certificate, shall hold a  
34 hearing thereon.

35 (f) When the California Energy Commission issues a  
36 certificate for the new construction of an electric transmission  
37 line, plant, system, or any extension thereof, the certificate shall  
38 include the operating characteristics of the line, storage, facility,  
39 plant, system, or extension thereof, including, but not limited to,  
40 the size, capacity, cost, and all other characteristics of the line,



1 storage, facility, plant, system, or extension thereof. The  
2 certificate shall also report any findings made by the California  
3 Energy Commission pursuant to Sections 1005 and 1005.5.

4 (g) The Department of Energy, in consultation with the  
5 commission, shall promptly establish a mechanism for the  
6 commission to timely advise the department regarding the retail  
7 rate impacts of the decision made by the California Energy  
8 Commission.

9 *SEC. 255. Section 1001.2 is added to the Public Utilities*  
10 *Code, to read:*

11 *1001.2. The transfer of authority to the California Energy*  
12 *Commission to issue certificates of public convenience and*  
13 *necessity by Section 1001.1 does not include the authority to*  
14 *make findings on the cost characteristics of a project pursuant to*  
15 *subdivision (b) of Section 1005 or to take any actions specified in*  
16 *Section 1005.5. That authority shall remain with the commission.*  
17 *When an electrical corporation submits an application under*  
18 *Section 1001.1 to the California Energy Commission, the*  
19 *electrical corporation shall serve a copy of the application on the*  
20 *commission's executive director.*

21 *SEC. 256. Section 1731 of the Public Utilities Code is*  
22 *amended to read:*

23 1731. (a) The commission shall set an effective date when  
24 issuing an order or decision. The commission may set the  
25 effective date of an order or decision prior to the date of issuance  
26 of the order or decision.

27 (b) After any order or decision has been made by the  
28 commission, any party to the action or proceeding, or any  
29 stockholder or bondholder or other party pecuniarily interested in  
30 the public utility affected, may apply for a rehearing in respect to  
31 any matters determined in the action or proceeding and specified  
32 in the application for rehearing. The commission may grant and  
33 hold a rehearing on those matters, if in its judgment sufficient  
34 reason is made to appear. No cause of action arising out of any  
35 order or decision of the commission shall accrue in any court to  
36 any corporation or person unless the corporation or person has  
37 filed an application to the commission for a rehearing within 30  
38 days after the date of issuance or within 10 days after the date of  
39 issuance in the case of an order issued pursuant to either Article  
40 5 (commencing with Section 816) or Article 6 (commencing with



Section 851) of Chapter 4 relating to security transactions and the transfer or encumbrance of utility property. For purposes of this article, “date of issuance” means the date when the commission mails the order or decision to the parties to the action or proceeding.

(c) No cause of action arising out of any order or decision of the commission construing, applying, or implementing the provisions of Chapter 4 of the Statutes of the 2001–02 First Extraordinary Session that (1) relates to the determination or implementation of the department’s revenue requirements, or the establishment or implementation of bond or power charges necessary to recover those revenue requirements, or (2) in the sole determination of the Department of Water Resources, *or its successor, the Department of Energy*, the expedited review of order or decision of the commission is necessary or desirable, for the maintenance of any credit ratings on any bonds or notes of the department issued pursuant to Division 27 (commencing with Section 80000) of the Water Code or for the department to meet its obligations with respect to any bonds or notes pursuant to that division, shall accrue in any court to any corporation or person unless the corporation or person has filed an application with the commission for a rehearing within 10 days after the date of issuance of the order or decision. The Department of Water Resources, *or its successor*, shall notify the commission of any determination pursuant to paragraph (2) of this subdivision prior to the issuance by the commission of any order or decision construing, applying, or implementing the provisions of Chapter 4 of the Statutes of the 2001–02 First Extraordinary Session. The commission shall issue its decision and order on rehearing within 20 days after the filing of the application.

*SEC. 257. Section 1768 of the Public Utilities Code is amended to read:*

1768. The following procedures shall apply to judicial review of an order or decision of the commission interpreting, implementing, or applying the provisions of Chapter 4 of the Statutes of the 2001–02 First Extraordinary Session that (1) relates to the determination or implementation of the revenue requirements of the Department of Water Resources, *or its successor, the Department of Energy*, or the establishment or implementation of bond or power charges necessary to recover



1 those revenue requirements, or (2) in the sole determination of  
2 the department, the expedited review of an order or decision of  
3 the commission is necessary or desirable, for the maintenance of  
4 any credit ratings on any bonds or notes of the department issued  
5 pursuant to Division 27 (commencing with Section 80000) of the  
6 Water Code or for the department to meet its obligations with  
7 respect to any bonds or notes pursuant to that division:

8 (a) Within 30 days after the commission issues its order or  
9 decision denying the application for a rehearing, or, if the  
10 application is granted, then within 30 days after the commission  
11 issues its decision on rehearing, any aggrieved party may petition  
12 for a writ of review in the California Supreme Court for the  
13 purpose of determining the lawfulness of the original order or  
14 decision or of the order or decision on rehearing. If the writ  
15 issues, it shall be made returnable at a time and place specified  
16 by court order and shall direct the commission to certify its  
17 record in the case to the court within the time specified. No order  
18 of the commission interpreting, implementing, or applying the  
19 provisions of Chapter 4 of the Statutes of the 2001–02 First  
20 Extraordinary Session shall be subject to review in the courts of  
21 appeal.

22 (b) The petition for review shall be served upon the executive  
23 director of the commission either personally or by service at the  
24 office of the commission.

25 (c) For purposes of this section, the issuance of a decision or  
26 the granting of an application shall be construed to have occurred  
27 on the date when the commission mails the decision or grant to  
28 the parties to the action or proceeding.

29 (d) All actions and proceedings under this section and all  
30 actions or proceedings to which the commission or the people of  
31 the State of California are parties in which any question arises  
32 under this section, or under or concerning any order or decision  
33 of the commission under this section, shall be preferred over, and  
34 shall be heard and determined in preference to, all other civil  
35 business except election causes, irrespective of position on the  
36 calendar.

37 (e) The provisions of this article apply to actions under this  
38 section to the extent that those provisions are not in conflict with  
39 this section.



1 *SEC. 258. Section 1822 of the Public Utilities Code is*  
2 *amended to read:*

3 1822. (a) Any computer model that is the basis for any  
4 testimony or exhibit in a hearing or proceeding before the  
5 commission shall be available to, and subject to verification by,  
6 the commission and parties to the hearing or proceedings to the  
7 extent necessary for cross-examination or rebuttal, subject to  
8 applicable rules of evidence, except that verification is not  
9 required for any electricity demand model or forecast prepared  
10 by the ~~State Energy Resources Conservation and Development~~  
11 ~~Commission~~ *Department of Energy* pursuant to Section 25309 or  
12 25402.1 of the Public Resources Code and approved and adopted  
13 after a hearing during which testimony was offered subject to  
14 cross-examination. The commission shall afford each of these  
15 electricity demand models or forecasts the evidentiary weight it  
16 determines appropriate. Nothing in this subdivision requires the  
17 ~~State Energy Resources Conservation and Development~~  
18 ~~Commission~~ *department* to approve or adopt any electricity  
19 demand model or forecast.

20 (b) Any testimony presented in a hearing or proceeding before  
21 the commission that is based in whole, or in part, on a computer  
22 model shall include a listing of all the equations and assumptions  
23 built into the model.

24 (c) Any database that is used for any testimony or exhibit in a  
25 hearing or proceeding before the commission shall be reasonably  
26 accessible to the commission staff and parties to the hearing or  
27 proceeding to the extent necessary for cross-examination or  
28 rebuttal, subject to applicable rules of evidence, as applied in  
29 commission proceedings.

30 (d) The commission shall adopt rules and procedures to meet  
31 the requirements specified in subdivisions (a), (b), and (c). These  
32 rules shall include procedural safeguards that protect ~~data bases~~  
33 *databases* and models not owned by the public utility.

34 (e) The commission shall establish appropriate procedures for  
35 determining the appropriate level of compensation for a party's  
36 access.

37 (f) Each party shall have access to the computer programs and  
38 models of each other party to the extent provided by Section  
39 1822. The commission shall not require a utility to provide a



1 remote terminal or other direct physical link to the computer  
2 systems of a utility to a third party.

3 (g) The commission shall verify, validate, and review the  
4 computer models of any electric corporation that are used for the  
5 purpose of planning, operating, constructing, or maintaining the  
6 corporation's electricity transmission system, and that are the  
7 basis for testimony and exhibits in hearings and proceedings  
8 before the commission.

9 (h) The transmission computer models shall be available to,  
10 and subject to verification by, each party to a commission  
11 proceeding in accordance with subdivision (a) of Section 1822,  
12 and regulations adopted pursuant to subdivision (d) of Section  
13 1822.

14 *SEC. 259. Section 2774.6 of the Public Utilities Code is*  
15 *amended to read:*

16 2774.6. The commission, in consultation with the—~~State~~  
17 ~~Energy Resources Conservation and Development Commission~~  
18 *Department of Energy*, shall develop a program for residential  
19 and commercial customer air-conditioning load control, as an  
20 element of each electrical corporation's tariffed service offerings  
21 paid for with electric rates. The goal of the program shall be to  
22 contribute to the adequacy of electricity supply and to help  
23 customers reduce their electric bills in a cost-effective manner.  
24 The program may include peak load reduction programs for  
25 residential and commercial air-conditioning systems, if the  
26 commission determines that the inclusion would be ~~cost-effective~~  
27 *cost effective*.

28 *SEC. 260. Section 2826.5 of the Public Utilities Code is*  
29 *amended to read:*

30 2826.5. (a) As used in this section, the following terms have  
31 the following meanings:

32 (1) "Benefiting account" means an electricity account, or more  
33 than one account, mutually agreed upon by Pacific Gas and  
34 Electric Company and the City of Davis.

35 (2) "Bill credit" means credits calculated based upon the  
36 electricity generation component of the rate schedule applicable  
37 to a benefiting account, as applied to the net metered quantities  
38 of electricity.

39 (3) "PVUSA" means the photovoltaic electricity generation  
40 facility selected by the City of Davis, located at 24662 County



1 Road, Davis, California, with a rated peak electricity generation  
2 capacity of 600 kilowatts, and as it may be expanded, not to  
3 exceed one megawatt of peak generation capacity.

4 (4) “Net metered” means the electricity output from the  
5 PVUSA.

6 (5) “Environmental attributes” associated with the PVUSA  
7 include, but are not limited to, the credits, benefits, emissions  
8 reductions, environmental air quality credits, and emissions  
9 reduction credits, offsets, and allowances, however entitled  
10 resulting from the avoidance of the emission of any gas,  
11 chemical, or other substance attributable to the PVUSA.

12 (b) The City of Davis may elect to designate a benefiting  
13 account, or more than one account, to receive bill credit for the  
14 electricity generated by the PVUSA, if all of the following  
15 conditions are met:

16 (1) A benefiting account receives service under a time-of-use  
17 rate schedule.

18 (2) The electricity output of the PVUSA is metered for time of  
19 use to allow allocation of each bill credit to correspond to the  
20 time-of-use period of a benefiting account.

21 (3) All costs associated with the metering requirements of  
22 paragraphs (1) and (2) are the responsibility of the City of Davis.

23 (4) All electricity delivered to the electrical grid by the  
24 PVUSA is the property of Pacific Gas and Electric Company.

25 (5) PVUSA does not sell electricity delivered to the electrical  
26 grid to a third party.

27 (6) The right, title, and interest in the environmental attributes  
28 associated with the electricity delivered to the electrical grid by  
29 the PVUSA are the property of Nuon Renewable Ventures USA,  
30 LLC.

31 (c) A benefiting account shall be billed on a monthly basis, as  
32 follows:

33 (1) For all electricity usage, the rate schedule applicable to the  
34 benefiting account, including any surcharge, exit fee, or other  
35 cost recovery mechanism, as determined by the commission, to  
36 reimburse the Department of Water Resources, *or its successor,*  
37 *the Department of Energy*, for purchases of electricity, pursuant  
38 to Division 27 (commencing with Section 80000) of the Water  
39 Code.



(2) The rate schedule for the benefiting account shall also provide credit for the generation component of the time-of-use rates for the electricity generated by the PVUSA that is delivered to the electrical grid. The generation component credited to the benefiting account may not include the surcharge, exit fee, or other cost recovery mechanism, as determined by the commission, to reimburse the Department of Water Resources, or its successor, the Department of Energy, for purchases of electricity, pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(3) If in any billing cycle, the charge pursuant to paragraph (1) for electricity usage exceeds the billing credit pursuant to paragraph (2), the City of Davis shall be charged for the difference.

(4) If in any billing cycle, the billing credit pursuant to paragraph (2), exceeds the charge for electricity usage pursuant to paragraph (1), the difference shall be carried forward as a credit to the next billing cycle.

(5) After the electricity usage charge pursuant to paragraph (1) and the credit pursuant to paragraph (2) are determined for the last billing cycle of a calendar year, any remaining credit resulting from the application of this section shall be reset to zero.

(d) Not more frequently than once per year, and upon providing Pacific Gas and Electric Company with a minimum of 60 days notice, the City of Davis may elect to change a benefiting account. Any credit resulting from the application of this section earned prior to the change in a benefiting account that has not been used as of the date of the change in the benefit account, shall be applied, and may only be applied, to a benefiting account as changed.

(e) Pacific Gas and Electric Company shall file an advice letter with the Public Utilities Commission, that complies with this section, not later than 10 days after the effective date of this section, proposing a rate tariff for a benefiting account. The commission, within 30 days of the date of filing, shall approve the proposed tariff, or specify conforming changes to be made by Pacific Gas and Electric Company to be filed in a new advice letter.



(f) The City of Davis may terminate its election pursuant to subdivision (b), upon providing Pacific Gas and Electric Company with a minimum of 60 days notice. Should the City of Davis sell its interest in the PVUSA, or sell the electricity generated by the PVUSA, in a manner other than required by this section, upon the date of either event, and the earliest date if both events occur, no further bill credit pursuant to paragraph (2) of subdivision (b) may be earned. Only credit earned prior to that date shall be made to a benefiting account.

(g) The Legislature finds and declares that credit for a benefiting account for the electricity output from the PVUSA are in the public interest in order to value the production of this unique, wholly renewable resource electricity generation facility located in, and owned in part by, the City of Davis. Because of the unique circumstances applicable only to the PVUSA a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, this special statute is necessary.

*SEC. 261. Section 2826.6 of the Public Utilities Code is amended to read:*

2826.6. (a) As used in this section, the following terms have the following meanings:

(1) "Benefiting account" means an electricity account, or more than one account, mutually agreed upon by Pacific Gas and Electric Company and California State University, Fresno, as selected by California State University, Fresno.

(2) "Bill credit" means credits calculated based upon the electricity generation component of the rate schedule applicable to a benefiting account, as applied to the net metered quantities of electricity.

(3) "Dinuba Facility" means the biomass facility located in Reedley, California, that supplies 11.5 megawatts, using no more than 20 percent natural gas, to the electrical grid owned by Pacific Gas and Electric Company.

(4) "Environmental attributes" associated with the Dinuba Facility include, but are not limited to, the credits, benefits, emissions reductions, environmental air quality credits, and emissions reduction credits, offsets, and allowances, however entitled resulting from the avoidance of the emission of any gas, chemical, or other substance attributable to the Dinuba Facility.



(5) “Net metered” means the electricity output from the Dinuba Facility.

(b) California State University, Fresno may elect to designate a benefiting account, or more than one account, to receive bill credit for the electricity generated by the Dinuba Facility, if all of the following conditions are met:

(1) A benefiting account receives service under a time-of-use rate schedule.

(2) The electricity output of the Dinuba Facility is metered for time of use to allow allocation of each bill credit to correspond to the time-of-use period of a benefiting account.

(3) All costs associated with the metering requirements of paragraphs (1) and (2) are the responsibility of California State University, Fresno.

(4) All electricity delivered to the electrical grid by the Dinuba Facility is the property of Pacific Gas and Electric Company.

(5) The Dinuba Facility does not sell electricity delivered to the electrical grid to a third party.

(6) The right, title, and interest in the environmental attributes associated with the electricity delivered to the electrical grid by the Dinuba Facility are the property of Auxiliary Corporation of California State University, Fresno.

(c) A benefiting account shall be billed on a monthly basis, as follows:

(1) For all electricity usage, the rate schedule applicable to the benefiting account shall be the rate schedule of the benefiting account, including any surcharge, exit fee, or other cost recovery mechanism, as determined by the Public Utilities Commission, to reimburse the Department of Water Resources, *or its successor, the Department of Energy*, for purchases of electricity; pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(2) The rate schedule for the benefiting account shall also provide credit for the generation component of the time-of-use rates for the electricity generated by the Dinuba Facility that is delivered to the electrical grid. The generation component credited to the benefiting account may not include the surcharge, exit fee, or other cost recovery mechanism, as determined by the Public Utilities Commission, to reimburse the Department of Water Resources, *or its successor, the Department of Energy*, for



1 purchases of electricity, pursuant to Division 27 (commencing  
2 with Section 80000) of the Water Code.

3 (3) If in any billing cycle, the charge pursuant to paragraph (1)  
4 for electricity usage exceeds the billing credit pursuant to  
5 paragraph (2), California State University, Fresno shall be  
6 charged for the difference.

7 (4) If in any billing cycle, the billing credit pursuant to  
8 paragraph (2), exceeds the charge for electricity usage pursuant  
9 to paragraph (1), the difference shall be carried forward as a  
10 credit to the next billing cycle.

11 (5) After the electricity usage charge pursuant to paragraph (1)  
12 and the credit pursuant to paragraph (2) are determined for the  
13 last billing cycle of a calendar year, any remaining credit  
14 resulting from the application of this section shall be reset to  
15 zero.

16 (d) Not more frequently than once per year, and upon  
17 providing Pacific Gas and Electric Company with a minimum of  
18 60 days notice, California State University, Fresno may elect to  
19 change a benefiting account. Any credit resulting from the  
20 application of this section earned prior to the change in a  
21 benefiting account that has not been used as of the date of the  
22 change in the benefit account, shall be applied, and may only be  
23 applied, to a benefiting account as changed.

24 (e) Pacific Gas and Electric Company shall file an advice letter  
25 with the Public Utilities Commission, that complies with this  
26 section, not later than 10 days after the effective date of this  
27 section, proposing a rate tariff for a benefiting account. The  
28 commission, within 30 days of the date of filing, shall approve  
29 the proposed tariff, or specify conforming changes to be made by  
30 Pacific Gas and Electric Company to be filed in a new advice  
31 letter.

32 (f) California State University, Fresno may terminate its  
33 election pursuant to subdivision (b), upon providing Pacific Gas  
34 and Electric Company with a minimum of 60 days notice. Should  
35 California State University, Fresno sell its interest in the Dinuba  
36 Facility, or sell the electricity generated by the Dinuba Facility,  
37 in a manner other than required by this section, upon the date of  
38 either event, and the earliest date if both events occur, no further  
39 bill credit pursuant to paragraph (2) of subdivision (b) may be



1 earned. Only credit earned prior to that date shall be made to a  
2 benefiting account.

3 (g) The Legislature finds and declares that credit for a  
4 benefiting account for the electricity output from the Dinuba  
5 Facility is in the public interest in order to value the production  
6 of this unique, renewable resource electricity generation facility  
7 located in Reedley, and owned by California State University,  
8 Fresno. Because of the unique circumstances applicable only to  
9 the Dinuba Facility, a statute of general applicability cannot be  
10 enacted within the meaning of subdivision (b) of Section 16 of  
11 Article IV of the California Constitution. Therefore, this special  
12 statute is necessary.

13 (h) This section shall remain in effect only until January 1,  
14 2008, and as of that date is repealed, unless a later enacted  
15 statute, that is enacted before January 1, 2008, deletes or extends  
16 that date.

17 *SEC. 262. Section 2827 of the Public Utilities Code is*  
18 *amended to read:*

19 2827. (a) The Legislature finds and declares that a program  
20 to provide net energy metering for eligible customer-generators  
21 is one way to encourage substantial private investment in  
22 renewable energy resources, stimulate in-state economic growth,  
23 reduce demand for electricity during peak consumption periods,  
24 help stabilize California's energy supply infrastructure, enhance  
25 the continued diversification of California's energy resource mix,  
26 and reduce interconnection and administrative costs for  
27 electricity suppliers.

28 (b) As used in this section, the following definitions apply:

29 (1) "Electric service provider" means an electrical corporation,  
30 as defined in Section 218, a local publicly owned electric utility,  
31 as defined in Section 9604, or an electrical cooperative, as  
32 defined in Section 2776, or any other entity that offers electrical  
33 service. This section shall not apply to a local publicly owned  
34 electric utility, as defined in Section 9604 of the Public Utilities  
35 Code, that serves more than 750,000 customers and that also  
36 conveys water to its customers.

37 (2) "Eligible customer-generator" means a residential, small  
38 commercial customer as defined in subdivision (h) of Section  
39 331, commercial, industrial, or agricultural customer of an  
40 electric service provider, who uses a solar or a wind turbine



1 electrical generating facility, or a hybrid system of both, with a  
2 capacity of not more than one megawatt that is located on the  
3 customer's owned, leased, or rented premises, is interconnected  
4 and operates in parallel with the electric grid, and is intended  
5 primarily to offset part or all of the customer's own electrical  
6 requirements.

7 (3) "Net energy metering" means measuring the difference  
8 between the electricity supplied through the electric grid and the  
9 electricity generated by an eligible customer-generator and fed  
10 back to the electric grid over a 12-month period as described in  
11 subdivision (h). Net energy metering shall be accomplished using  
12 a single meter capable of registering the flow of electricity in two  
13 directions. An additional meter or meters to monitor the flow of  
14 electricity in each direction may be installed with the consent of  
15 the customer-generator, at the expense of the electric service  
16 provider, and the additional metering shall be used only to  
17 provide the information necessary to accurately bill or credit the  
18 customer-generator pursuant to subdivision (h), or to collect solar  
19 or wind electric generating system performance information for  
20 research purposes. If the existing electrical meter of an eligible  
21 customer-generator is not capable of measuring the flow of  
22 electricity in two directions, the customer-generator shall be  
23 responsible for all expenses involved in purchasing and installing  
24 a meter that is able to measure electricity flow in two directions.  
25 If an additional meter or meters are installed, the net energy  
26 metering calculation shall yield a result identical to that of a  
27 single meter. An eligible customer-generator who already owns  
28 an existing solar or wind turbine electrical generating facility, or  
29 a hybrid system of both, is eligible to receive net energy metering  
30 service in accordance with this section.

31 (4) "Wind energy co-metering" means any wind energy  
32 project greater than 50 kilowatts, but not exceeding one  
33 megawatt, where the difference between the electricity supplied  
34 through the electric grid and the electricity generated by an  
35 eligible customer-generator and fed back to the electric grid over  
36 a 12-month period is as described in subdivision (h). Wind  
37 energy co-metering shall be accomplished pursuant to Section  
38 2827.8.

39 (5) "Co-energy metering" means a program that is the same in  
40 all other respects as a net energy metering program, except that



1 the local publicly owned electric utility, as defined in Section  
2 9604, has elected to apply a generation-to-generation energy and  
3 time-of-use credit formula as provided in subdivision (i).

4 (6) "Ratemaking authority" means, for an electrical  
5 corporation as defined in Section 218, or an electrical  
6 cooperative as defined in Section 2776, the commission, and for  
7 a local publicly owned electric utility as defined in Section 9604,  
8 the local elected body responsible for regulating the rates of the  
9 local publicly owned utility.

10 (c) (1) Every electric service provider shall develop a standard  
11 contract or tariff providing for net energy metering, and shall  
12 make this contract available to eligible customer-generators,  
13 upon request, on a first-come-first-served basis until the time that  
14 the total rated generating capacity used by eligible  
15 customer-generators exceeds one-half of 1 percent of the electric  
16 service provider's aggregate customer peak demand.

17 (2) On an annual basis, beginning in 2003, every electric  
18 service provider shall make available to the ratemaking authority  
19 information on the total rated generating capacity used by  
20 eligible customer-generators that are customers of that provider  
21 in the provider's service area. For those electric service providers  
22 who are operating pursuant to Section 394, they shall make  
23 available to the ratemaking authority the information required by  
24 this paragraph for each eligible customer-generator that is their  
25 customer for each service area of an electric corporation, local  
26 publicly owned electric utility, or electrical cooperative, in which  
27 the customer has net energy metering. The ratemaking authority  
28 shall develop a process for making the information required by  
29 this paragraph available to energy service providers, and for  
30 using that information to determine when, pursuant to paragraph  
31 (3), a service provider is not obligated to provide net energy  
32 metering to additional customer-generators in its service area.

33 (3) Notwithstanding paragraph (1), an electric service provider  
34 is not obligated to provide net energy metering to additional  
35 customer-generators in its service area when the combined total  
36 peak demand of all customer-generators served by all the electric  
37 service providers in that service area furnishing net energy  
38 metering to eligible customer-generators exceeds one-half of 1  
39 percent of the aggregate customer peak demand of those electric  
40 service providers.



1 (d) Electric service providers shall make all necessary forms  
2 and contracts for net metering service available for download  
3 from the Internet.

4 (e) (1) Every electric service provider shall ensure that  
5 requests for establishment of net energy metering are processed  
6 in a time period not exceeding that for similarly situated  
7 customers requesting new electric service, but not to exceed 30  
8 working days from the date the electric service provider receives  
9 a completed application form for net metering service, including  
10 a signed interconnection agreement from an eligible  
11 customer-generator and the electric inspection clearance from the  
12 governmental authority having jurisdiction. If an electric service  
13 provider is unable to process the request within the allowable  
14 timeframe, the electric service provider shall notify both the  
15 customer-generator and the ratemaking authority of the reason  
16 for its inability to process the request and the expected  
17 completion date.

18 (2) Electric service providers shall ensure that requests for an  
19 interconnection agreement from an eligible customer-generator  
20 are processed in a time period not to exceed 30 working days  
21 from the date the electric service provider receives a completed  
22 application form from the eligible customer-generator for an  
23 interconnection agreement. If an electric service provider is  
24 unable to process the request within the allowable timeframe, the  
25 electric service provider shall notify the customer-generator and  
26 the ratemaking authority of the reason for its inability to process  
27 the request and the expected completion date.

28 (f) (1) If a customer participates in direct transactions  
29 pursuant to paragraph (1) of subdivision (b) of Section 365 with  
30 an electric supplier that does not provide distribution service for  
31 the direct transactions, the service provider that provides  
32 distribution service for an eligible customer-generator is not  
33 obligated to provide net energy metering to the customer.

34 (2) If a customer participates in direct transactions pursuant to  
35 paragraph (1) of subdivision (b) of Section 365 with an electric  
36 supplier, and the customer is an eligible customer-generator, the  
37 service provider that provides distribution service for the direct  
38 transactions may recover from the customer's electric service  
39 provider the incremental costs of metering and billing service



1 related to net energy metering in an amount set by the ratemaking  
2 authority.

3 (g) Each net energy metering contract or tariff shall be  
4 identical, with respect to rate structure, all retail rate components,  
5 and any monthly charges, to the contract or tariff to which the  
6 same customer would be assigned if the customer did not use an  
7 eligible solar or wind electrical generating facility, except that  
8 eligible customer-generators shall not be assessed standby  
9 charges on the electrical generating capacity or the kilowatthour  
10 production of an eligible solar or wind electrical generating  
11 facility. The charges for all retail rate components for eligible  
12 customer-generators shall be based exclusively on the  
13 customer-generator's net kilowatthour consumption over a  
14 12-month period, without regard to the customer-generator's  
15 choice of electric service provider. Any new or additional  
16 demand charge, standby charge, customer charge, minimum  
17 monthly charge, interconnection charge, or any other charge that  
18 would increase an eligible customer-generator's costs beyond  
19 those of other customers who are not customer-generators in the  
20 rate class to which the eligible customer-generator would  
21 otherwise be assigned if the customer did not own, lease, rent, or  
22 otherwise operate an eligible solar or wind electrical generating  
23 facility are contrary to the intent of this section, and shall not  
24 form a part of net energy metering contracts or tariffs.

25 (h) For eligible residential and small commercial  
26 customer-generators, the net energy metering calculation shall be  
27 made by measuring the difference between the electricity  
28 supplied to the eligible customer-generator and the electricity  
29 generated by the eligible customer-generator and fed back to the  
30 electric grid over a 12-month period. The following rules shall  
31 apply to the annualized net metering calculation:

32 (1) The eligible residential or small commercial  
33 customer-generator shall, at the end of each 12-month period  
34 following the date of final interconnection of the eligible  
35 customer-generator's system with an electric service provider,  
36 and at each anniversary date thereafter, be billed for electricity  
37 used during that period. The electric service provider shall  
38 determine if the eligible residential or small commercial  
39 customer-generator was a net consumer or a net producer of  
40 electricity during that period.



(2) At the end of each 12-month period, where the electricity supplied during the period by the electric service provider exceeds the electricity generated by the eligible residential or small commercial customer-generator during that same period, the eligible residential or small commercial customer-generator is a net electricity consumer and the electric service provider shall be owed compensation for the eligible customer-generator's net kilowatthour consumption over that same period. The compensation owed for the eligible residential or small commercial customer-generator's consumption shall be calculated as follows:

(A) For all eligible customer-generators taking service under tariffs employing "baseline" and "over baseline" rates, any net monthly consumption of electricity shall be calculated according to the terms of the contract or tariff to which the same customer would be assigned to or be eligible for if the customer was not an eligible customer-generator. If those same customer-generators are net generators over a billing period, the net kilowatthours generated shall be valued at the same price per kilowatthour as the electric service provider would charge for the baseline quantity of electricity during that billing period, and if the number of kilowatthours generated exceeds the baseline quantity, the excess shall be valued at the same price per kilowatthour as the electric service provider would charge for electricity over the baseline quantity during that billing period.

(B) For all eligible customer-generators taking service under tariffs employing "time of use" rates, any net monthly consumption of electricity shall be calculated according to the terms of the contract or tariff to which the same customer would be assigned to or be eligible for if the customer was not an eligible customer-generator. When those same customer-generators are net generators during any discrete time of use period, the net kilowatthours produced shall be valued at the same price per kilowatthour as the electric service provider would charge for retail kilowatthour sales during that same time of use period. If the eligible customer-generator's time of use electrical meter is unable to measure the flow of electricity in two directions, paragraph (3) of subdivision (b) shall apply.

(C) For all residential and small commercial customer-generators and for each billing period, the net balance



1 of moneys owed to the electric service provider for net  
2 consumption of electricity or credits owed to the  
3 customer-generator for net generation of electricity shall be  
4 carried forward as a monetary value until the end of each  
5 12-month period. For all commercial, industrial, and agricultural  
6 customer-generators the net balance of moneys owed shall be  
7 paid in accordance with the electric service provider's normal  
8 billing cycle, except that if the commercial, industrial, or  
9 agricultural customer-generator is a net electricity producer over  
10 a normal billing cycle, any excess kilowatthours generated during  
11 the billing cycle shall be carried over to the following billing  
12 period as a monetary value, calculated according to the  
13 procedures set forth in this section, and appear as a credit on the  
14 customer-generator's account, until the end of the annual period  
15 when paragraph (3) shall apply.

16 (3) At the end of each 12-month period, where the electricity  
17 generated by the eligible customer-generator during the  
18 12-month period exceeds the electricity supplied by the electric  
19 service provider during that same period, the eligible  
20 customer-generator is a net electricity producer and the electric  
21 service provider shall retain any excess kilowatthours generated  
22 during the prior 12-month period. The eligible  
23 customer-generator shall not be owed any compensation for  
24 those excess kilowatthours unless the electric service provider  
25 enters into a purchase agreement with the eligible  
26 customer-generator for those excess kilowatthours.

27 (4) The electric service provider shall provide every eligible  
28 residential or small commercial customer-generator with net  
29 electricity consumption information with each regular bill. That  
30 information shall include the current monetary balance owed the  
31 electric service provider for net electricity consumed since the  
32 last 12-month period ended. Notwithstanding this subdivision, an  
33 electric service provider shall permit that customer to pay  
34 monthly for net energy consumed.

35 (5) If an eligible residential or small commercial  
36 customer-generator terminates the customer relationship with the  
37 electric service provider, the electric service provider shall  
38 reconcile the eligible customer-generator's consumption and  
39 production of electricity during any part of a 12-month period  
40 following the last reconciliation, according to the requirements



1 set forth in this subdivision, except that those requirements shall  
2 apply only to the months since the most recent 12-month bill.

3 (6) If an electric service provider providing net metering to a  
4 residential or small commercial customer-generator ceases  
5 providing that electrical service to that customer during any  
6 12-month period, and the customer-generator enters into a new  
7 net metering contract or tariff with a new electric service  
8 provider, the 12-month period, with respect to that new electric  
9 service provider, shall commence on the date on which the new  
10 electric service provider first supplies electric service to the  
11 customer-generator.

12 (i) Notwithstanding any other provisions of this section, the  
13 following provisions shall apply to an eligible  
14 customer-generator with a capacity of more than 10 kilowatts,  
15 but not exceeding one megawatt, that receives electrical service  
16 from a local publicly owned electric utility, as defined in Section  
17 9604, that has elected to utilize a co-energy metering program  
18 unless the electric service provider chooses to provide service for  
19 eligible customer-generators with a capacity of more than 10  
20 kilowatts in accordance with subdivisions (g) and (h):

21 (1) The eligible customer-generator shall be required to utilize  
22 a meter, or multiple meters, capable of separately measuring  
23 electricity flow in both directions. All meters shall provide  
24 “time-of-use” measurements of electricity flow, and the customer  
25 shall take service on a time-of-use rate schedule. If the existing  
26 meter of the eligible customer-generator is not a time-of-use  
27 meter or is not capable of measuring total flow of energy in both  
28 directions, the eligible customer-generator shall be responsible  
29 for all expenses involved in purchasing and installing a meter  
30 that is both time-of-use and able to measure total electricity flow  
31 in both directions. This subdivision shall not restrict the ability of  
32 an eligible customer-generator to utilize any economic incentives  
33 provided by a government agency or the electric service provider  
34 to reduce its costs for purchasing and installing a time-of-use  
35 meter.

36 (2) The consumption of electricity from the electric service  
37 provider shall result in a cost to the eligible customer-generator  
38 to be priced in accordance with the standard rate charged to the  
39 eligible customer-generator in accordance with the rate structure  
40 to which the customer would be assigned if the customer did not



1 use an eligible solar or wind electrical generating facility. The  
2 generation of electricity provided to the electric service provider  
3 shall result in a credit to the eligible customer-generator and shall  
4 be priced in accordance with the generation component,  
5 established under the applicable structure to which the customer  
6 would be assigned if the customer did not use an eligible solar or  
7 wind electrical generating facility.

8 (3) All costs and credits shall be shown on the eligible  
9 customer-generator's bill for each billing period. In any months  
10 in which the eligible customer-generator has been a net consumer  
11 of electricity calculated on the basis of value determined pursuant  
12 to paragraph (2), the customer-generator shall owe to the electric  
13 service provider the balance of electricity costs and credits during  
14 that billing period. In any billing period in which the eligible  
15 customer-generator has been a net producer of electricity  
16 calculated on the basis of value determined pursuant to paragraph  
17 (2), the electric service provider shall owe to the eligible  
18 customer-generator the balance of electricity costs and credits  
19 during that billing period. Any net credit to the eligible  
20 customer-generator of electricity costs may be carried forward to  
21 subsequent billing periods, provided that an electric service  
22 provider may choose to carry the credit over as a kilowatthour  
23 credit consistent with the provisions of any applicable tariff,  
24 including any differences attributable to the time of generation of  
25 the electricity. At the end of each 12-month period, the electric  
26 service provider may reduce any net credit due to the eligible  
27 customer-generator to zero.

28 (j) A solar or wind turbine electrical generating system, or a  
29 hybrid system of both, used by an eligible customer-generator  
30 shall meet all applicable safety and performance standards  
31 established by the National Electrical Code, the Institute of  
32 Electrical and Electronics Engineers, and accredited testing  
33 laboratories such as Underwriters Laboratories and, where  
34 applicable, rules of the Public Utilities Commission regarding  
35 safety and reliability. A customer-generator whose solar or wind  
36 turbine electrical generating system, or a hybrid system of both,  
37 meets those standards and rules shall not be required to install  
38 additional controls, perform or pay for additional tests, or  
39 purchase additional liability insurance.



(k) If the commission determines that there are cost or revenue obligations for an electric corporation, as defined in Section 218, that may not be recovered from customer-generators acting pursuant to this section, those obligations shall remain within the customer class from which any shortfall occurred and may not be shifted to any other customer class. Net-metering and co-metering customers shall not be exempt from the public benefits charge. In its report to the Legislature, the commission shall examine different methods to ensure that the public benefits charge remains a nonbypassable charge.

(l) A net metering customer shall reimburse the Department of Water Resources, *or its successor, the Department of Energy*, for all charges that would otherwise be imposed on the customer by the commission to recover bond-related costs pursuant to an agreement between the commission and the ~~Department of Water Resources~~ department pursuant to Section 80110 of the Water Code, as well as the costs of the department equal to the share of the department's estimated net unavoidable power purchase contract costs attributable to the customer. The commission shall incorporate the determination into an existing proceeding before the commission, and shall ensure that the charges are nonbypassable. Until the commission has made a determination regarding the nonbypassable charges, net metering shall continue under the same rules, procedures, terms, and conditions as were applicable on December 31, 2002.

(m) In implementing the requirements of subdivisions (k) and (l), a customer-generator shall not be required to replace its existing meter except as set forth in paragraph (3) of subdivision (b), nor shall the electric service provider require additional measurement of usage beyond that which is necessary for customers in the same rate class as the eligible customer-generator.

(n) On or before January 1, 2005, the commission shall submit a report to the Governor and the Legislature that assesses the economic and environmental costs and benefits of net metering to customer-generators, ratepayers, and utilities, including any beneficial and adverse effects on public benefit programs and special purpose surcharges. The report shall be prepared by an independent party under contract with the commission.



(o) It is the intent of the Legislature that the Treasurer incorporate net energy metering and co-energy metering projects undertaken pursuant to this section as sustainable building methods or distributive energy technologies for purposes of evaluating low-income housing projects.

*SEC. 263. Section 3302 of the Public Utilities Code is amended to read:*

3302. As used in this division, unless the context otherwise requires, the following terms have the following meanings:

(a) “Act” means the California Consumer Power and Conservation Financing Authority Act.

(b) “Authority” means the California Consumer Power and Conservation Financing Authority established pursuant to Section 3320 and any board, commission, department, or officer succeeding to the functions thereof, or to whom the powers conferred upon the authority by this division shall be given by law. *As of the effective date of the amendments to this section enacted at the 2005–06 Regular Session, the Department of Energy shall succeed to the function of the authority, and thereafter, “authority” means the Department of Energy.*

~~(c) “Board” means the Board of Directors of the California Consumer Power and Conservation Financing Authority.~~

~~(d)~~

(c) “Bond purchase agreement” means a contractual agreement executed between the authority and an underwriter or underwriters and, where appropriate, a participating party, whereby the authority agrees to sell bonds issued pursuant to this division.

~~(e)~~

(d) “Bonds” means bonds, including structured, senior, and subordinated bonds or other securities; loans; notes, including bond revenue or grant anticipation notes; certificates of indebtedness; commercial paper; floating rate and variable maturity securities; and any other evidences of indebtedness or ownership, including certificates of participation or beneficial interest, asset backed certificates, or lease-purchase or installment purchase agreements, whether taxable or excludable from gross income for state and federal income taxation purposes.

~~(f)~~



1 (e) “Commission” means the Public Utilities Commission.

2 ~~(g)~~

3 (f) “Cost,” as applied to a program, project or portion thereof  
4 financed under this division, means all or any part of the cost of  
5 construction, improvement, repair, reconstruction, renovation,  
6 and acquisition of all lands, structures, improved or unimproved  
7 real or personal property, rights, rights-of-way, franchises,  
8 licenses, easements, and interests acquired or used for a project;  
9 the cost of demolishing or removing or relocating any buildings  
10 or structures on land so acquired, including the cost of acquiring  
11 any lands to which the buildings or structures may be moved; the  
12 cost of all machinery and equipment; financing charges; the costs  
13 of any environmental mitigation; the costs of issuance of bonds  
14 or other indebtedness; interest prior to, during, and for a period  
15 after, completion of the project, as determined by the authority;  
16 provisions for working capital; reserves for principal and interest;  
17 reserves for reduction of costs for loans or other financial  
18 assistance; reserves for maintenance, extension, enlargements,  
19 additions, replacements, renovations, and improvements; and the  
20 cost of architectural, engineering, financial, appraisal, and legal  
21 services, plans, specifications, estimates, administrative  
22 expenses, and other expenses necessary or incidental to  
23 determining the feasibility of any project, enterprise, or program  
24 or incidental to the completion or financing of any project or  
25 program.

26 ~~(h)~~

27 (g) “Department” means the Department of Energy.

28 (h) “Electrical corporation” has the same meaning as that term  
29 is defined in Section 218.

30 ~~(i) “Energy Commission” means the State Energy Resources~~  
31 ~~Conservation and Development Commission.~~

32 ~~(j)~~

33 (i) “Enterprise” means a revenue-producing improvement,  
34 building, system, plant, works, facilities, or undertaking used for  
35 or useful for the generation or production of electric energy for  
36 lighting, heating, and power for public or private uses. Enterprise  
37 includes, but is not limited to, all parts of the enterprise, all  
38 appurtenances to it, lands, easements, rights in land, water rights,  
39 contract rights, franchises, buildings, structures, improvements,  
40 equipment, and facilities appurtenant or relating to the enterprise.



~~(k)~~

(j) “Financial assistance” in connection with a project, enterprise or program, includes, but is not limited to, any combination of grants, loans, the proceeds of bonds issued by the authority, insurance, guarantees or other credit enhancements or liquidity facilities, and contributions of money, property, labor, or other things of value, as may be approved by resolution of the board; the purchase or retention of authority bonds, the bonds of a participating party for their retention or for sale by the authority, or the issuance of authority bonds or the bonds of a special purpose trust used to fund the cost of a project or program for which a participating party is directly or indirectly liable, including, but not limited to, bonds, the security for which is provided in whole or in part pursuant to the powers granted by this division; bonds for which the authority has provided a guarantee or enhancement; or any other type of assistance determined to be appropriate by the authority.

~~(l)~~

(k) “Fund” means the California Consumer Power and Conservation Financing Authority Fund.

~~(m)~~

(l) “Loan agreement” means a contractual agreement executed between the authority and a participating party that provides that the authority will loan funds to the participating party and that the participating party will repay the principal and pay the interest and redemption premium, if any, on the loan.

~~(n)~~

(m) “Local publicly owned electric utility” has the same meaning as that term is defined in Section 9604.

~~(o)~~

(n) “Participating party” means either of the following:

(1) Any person, company, corporation, partnership, firm, federally recognized California Indian tribe, or other entity or group of entities, whether organized for profit or not for profit, engaged in business or operations within the state and that applies for financial assistance from the authority for the purpose of implementing a project or program in a manner prescribed by the authority.

(2) Any subdivision of the state or local government, including, but not limited to, departments, agencies,



commissions, cities, counties, nonprofit corporations, special districts, assessment districts, and joint powers authorities within the state or any combination of these subdivisions, that has, or proposes to acquire, an interest in a project, or that operates or proposes to operate a program under Section 3365, and that makes application to the authority for financial assistance in a manner prescribed by the authority.

~~(p)~~

(o) “Program” means a program that provides financial assistance, as provided in Article 6 (commencing with Section 3365).

~~(q)~~

(p) “Project” means plants, facilities, equipment, appliances, structures, expansions, and improvements within the state that serve the purposes of this division as approved by the authority, and all activities and expenses necessary to initiate and complete those projects described in Article 5 (commencing with Section 3350) and Article 7 (commencing with Section 3368), of Chapter 3.

~~(r)~~

(q) “Revenues” means all receipts, purchase payments, loan repayments, lease payments, rents, fees and charges, and all other income or receipts derived by the authority from an enterprise, or by the authority or a participating party from any other financing arrangement undertaken by the authority or a participating party, including, but not limited to, all receipts from a bond purchase agreement, and any income or revenue derived from the investment of any money in any fund or account of the authority or a participating party.

~~(s)~~

(r) “State” means the State of California.

*SEC. 264. Section 3310 of the Public Utilities Code is amended to read:*

3310. The ~~authority~~ department may only exercise its powers pursuant to Article 4 (commencing with Section 3340) of Chapter 3 for the following purposes:

(a) Establish, finance, purchase, lease, own, operate, acquire, or construct generating facilities and other projects and enterprises, on its own or through agreements with public and private third parties or joint ventures with public or private



1 entities, or provide financial assistance for projects or programs  
2 by participating parties, to supplement private and public sector  
3 power supplies, taking into account generation facilities in  
4 operation or under development as of the effective date of this  
5 section, and to ensure a sufficient and reliable supply of  
6 electricity for California's consumers at just and reasonable rates.

7 (b) Finance programs, administered by the ~~Energy~~  
8 ~~Commission~~ department, the commission, and other approved  
9 participating parties for consumers and businesses to invest in  
10 cost-effective energy efficient appliances, renewable energy  
11 projects, and other programs that will reduce the demand for  
12 energy in California.

13 (c) Finance natural gas transportation and storage projects  
14 under Article 7 (commencing with Section 3368) of Chapter 3.

15 (d) Achieve an adequate energy reserve capacity in California  
16 within five years of the effective date of this division.

17 (e) Provide financing for owners of aged, inefficient, electric  
18 powerplants to perform necessary retrofits to improve the  
19 efficiency and environmental performances of those powerplants.

20 *SEC. 265. Section 3320 of the Public Utilities Code is*  
21 *amended to read:*

22 3320. (a) ~~There is hereby created in the state government the~~  
23 ~~California Consumer Power and Conservation Financing~~  
24 ~~Authority, which~~ *The department, also referred to in this division*  
25 *as the authority*, shall be responsible for administering this  
26 division.

27 (b) ~~The authority~~ department shall implement the purposes of  
28 Chapter 2 (commencing with Section 3310), and to that end  
29 finance projects and programs in accordance with this division,  
30 all to the mutual benefit of the people of the state and to protect  
31 their health, welfare, and safety.

32 *SEC. 266. Section 3325 of the Public Utilities Code is*  
33 *repealed.*

34 3325. (a) ~~The authority shall be governed by a five-member~~  
35 ~~board of directors that shall consist of the following persons:~~

36 ~~(1) Four individuals appointed by the Governor, subject to~~  
37 ~~confirmation by the Senate. These four members shall have~~  
38 ~~considerable experience in power generation, natural gas~~  
39 ~~transportation or storage, energy conservation, financing, or~~  
40 ~~ratepayer advocacy.~~



1 ~~(2) The State Treasurer.~~

2 ~~(b) (1) For the initial term, the appointed members shall serve~~  
3 ~~staggered terms as follows:~~

4 ~~(A) The member appointed first shall serve a term of four~~  
5 ~~years.~~

6 ~~(B) The member appointed second shall serve a term of three~~  
7 ~~years.~~

8 ~~(C) The member appointed third shall serve a term of two~~  
9 ~~years.~~

10 ~~(D) The member appointed fourth shall serve a term of one~~  
11 ~~year.~~

12 ~~(2) The second and any subsequent terms shall be for four~~  
13 ~~years.~~

14 ~~(e) A quorum is necessary for any action to be taken by the~~  
15 ~~board. Three of the members shall constitute a quorum, and the~~  
16 ~~affirmative vote of three board members shall be necessary for~~  
17 ~~any action to be taken by the board.~~

18 ~~(d) (1) The chairperson of the board shall be appointed by the~~  
19 ~~Governor. This position shall be a full-time, paid position.~~

20 ~~(2) Except as provided in this subdivision, the members of the~~  
21 ~~board shall serve without compensation, but shall be reimbursed~~  
22 ~~for actual and necessary expenses incurred in the performance of~~  
23 ~~their duties to the extent that reimbursement for these expenses is~~  
24 ~~not otherwise provided or payable by another public agency, and~~  
25 ~~shall receive one hundred dollars (\$100) for each full day of~~  
26 ~~attending meetings of the authority.~~

27 *SEC. 267. Section 3326 of the Public Utilities Code is*  
28 *repealed.*

29 ~~3326. (a) The members of the board shall be subject to the~~  
30 ~~Political Reform Act of 1974 (Title 9 (commencing with Section~~  
31 ~~81000)) of the Government Code, and all other applicable~~  
32 ~~provisions of law.~~

33 ~~(b) The board may purchase insurance for its fiduciaries or for~~  
34 ~~itself to cover liability or losses occurring by reason of the act or~~  
35 ~~omission of a fiduciary, if the insurance permits recourse by the~~  
36 ~~insurer against the fiduciary in the case of a breach of a fiduciary~~  
37 ~~obligation by the fiduciary.~~

38 *SEC. 268. Section 3327 of the Public Utilities Code is*  
39 *repealed.*



1     ~~3327. Meetings of the board shall be open to the public and~~  
2 ~~shall be conducted in accordance with the Bagley-Keene Open~~  
3 ~~Meeting Act (Article 9 (commencing with Section 11120) of~~  
4 ~~Chapter 1 of Part 1 of Division 3 of Title 2 of the Government~~  
5 ~~Code).~~

6     *SEC. 269. Section 3330 of the Public Utilities Code is*  
7 *amended to read:*

8     ~~3330. The chief executive officer shall manage and conduct~~  
9 ~~the business and affairs of the authority and the fund subject to~~  
10 ~~the direction of the board. Except as otherwise provided in this~~  
11 ~~section, the board department may assign to the executive~~  
12 ~~director, by resolution a designee, those duties generally~~  
13 ~~necessary or convenient to carry out its powers and purposes~~  
14 ~~under this division. Any action involving final approval of any~~  
15 ~~bonds, notes, loans, or other financial assistance shall require the~~  
16 ~~approval of a majority of the members of the board the~~  
17 ~~department.~~

18     *SEC. 270. Section 3340 of the Public Utilities Code is*  
19 *repealed.*

20     ~~3340. The authority is authorized and empowered to do any~~  
21 ~~of the following:~~

22     ~~(a) Adopt an official seal.~~

23     ~~(b) Sue and be sued in its own name.~~

24     ~~(c) Employ or contract with officers and employees to~~  
25 ~~administer the authority. The authority may contract for the~~  
26 ~~services of a chief executive officer, who shall serve at the~~  
27 ~~pleasure of the board. If the chief executive officer contracts for~~  
28 ~~the services of any other officer or employee, the contract shall~~  
29 ~~be subject to the approval of the board.~~

30     ~~(d) Exercise the power of eminent domain.~~

31     ~~(e) Adopt rules and regulations for the regulation of its affairs~~  
32 ~~and the conduct of its business.~~

33     ~~(f) Do all things generally necessary or convenient to carry~~  
34 ~~out its powers under, and the purposes of, this division.~~

35     *SEC. 271. Section 3340 is added to the Public Utilities Code,*  
36 *to read:*

37     ~~3340. The department is authorized and empowered to do all~~  
38 ~~things generally necessary or convenient to carry out its powers~~  
39 ~~under, and the purposes of, this division.~~



1 (a) Except as provided in subdivision (b), no bonding  
2 authority under this division shall be utilized by the department  
3 unless the Secretary of Energy has delivered to the Joint  
4 Legislative Budget Committee written notice of intent to exercise  
5 such authority at least 90 days in advance. The notice shall  
6 reasonably describe the purpose for which the bonding authority  
7 will be used and the circumstances that support its use.

8 (b) If the proposed exercise of authority is in response to a  
9 declared emergency by the Governor, notice by the Secretary of  
10 Energy is not required to be delivered 90 days in advance but  
11 shall be delivered to the Joint Legislative Budget Committee as  
12 close to 90 days in advance as is feasible under the  
13 circumstances.

14 SEC. 272. Section 3341 of the Public Utilities Code is  
15 amended to read:

16 3341. In connection with the purposes of this division, the  
17 ~~authority~~ department may do any or all of the following:

18 (a) Issue bonds, from time to time, as further provided in  
19 Chapter 5 (commencing with Section 3380.1), to pay all or part  
20 of the cost of any enterprise, project, or program, or to otherwise  
21 carry out the purposes of this division.

22 (b) Enter into joint powers agreements with eligible public  
23 agencies pursuant to Chapter 5 (commencing with Section 6500)  
24 of Division 7 of Title 1 of the Government Code.

25 (c) Subject to any statutory or constitutional limitation on their  
26 use, do any of the following as may, in the determination of the  
27 ~~authority~~ department, be necessary or convenient for the  
28 successful development, conduct, or financing of a project,  
29 program, or enterprise, or for carrying out the purposes of this  
30 division:

31 (1) Engage the services, including, without limitation, the  
32 services of private consultants; attorneys; financial professionals  
33 and advisers; engineers; architects; construction, land use and  
34 environmental experts; and accountants, to render professional  
35 and technical assistance and advice.

36 (2) Contract for engineering, architectural, accounting, or  
37 other services of appropriate state agencies.

38 (3) Pay the reasonable costs, including, without limitation,  
39 costs of consulting engineers, architects, accountants, and  
40 construction, land use, and environmental experts employed by



1 the ~~authority~~ *department* or any participating party. Except as  
2 otherwise provided in Section 3341.5, those costs shall be  
3 recovered from participating parties.

4 (d) Acquire, lease, take title to, and sell by installment sale or  
5 otherwise, lands, structures, real or personal property, rights,  
6 rights-of-way, franchises, easements, and other interests in lands  
7 that are located within the state, as the ~~authority~~ *department*  
8 determines to be necessary or convenient for an enterprise or the  
9 financing of a project, upon terms and conditions the ~~authority~~  
10 *department* considers to be reasonable.

11 (e) Make, receive, or serve as a conduit for the making of, or  
12 otherwise provide for, grants, contributions, guarantees,  
13 insurance, credit enhancements or liquidity facilities, or other  
14 financial enhancements to a participating party as financial  
15 assistance for a project or program. The sources may include  
16 bond proceeds, dedicated taxes, state appropriations, federal  
17 appropriations, federal grants and loan funds, public and private  
18 sector retirement system funds, and proceeds of loans from the  
19 Pooled Money Investment Account, or any other source of  
20 money, property, labor, or other things of value.

21 (f) Make loans to any participating party, either directly or by  
22 making a loan to a lending institution or other financial  
23 intermediary, in connection with the financing of a project or  
24 program in accordance with an agreement between the ~~authority~~  
25 *department* and a participating party, either as a sole lender or in  
26 participation with other lenders.

27 (g) Make loans to any participating party, either directly or by  
28 making a loan to a lending institution, in accordance with an  
29 agreement between the ~~authority~~ *department* and the  
30 participating party to refinance indebtedness incurred by the  
31 participating party in connection with projects undertaken and  
32 completed prior to any agreement with the ~~authority~~ *department*  
33 or expectation that the ~~authority~~ *department* would provide  
34 financing, either as a sole lender or in participation with other  
35 lenders. The power generated by those projects shall be subject to  
36 the terms and conditions specified by the ~~authority~~ *department* in  
37 the agreement and pursuant to Section 3351.

38 (h) Mortgage all or any portion of the ~~authority's~~ *department's*  
39 interest in a project or enterprise and the property on which any  
40 project or enterprise is located, whether owned or thereafter



1 acquired, including the granting of a security interest in any  
2 property, tangible or intangible.

3 (i) Assign or pledge all or any portion of the ~~authority's~~  
4 ~~department's~~ interest in assets, things of value, mortgages, deeds  
5 of trust, bonds, bond purchase agreements, loan agreements,  
6 indentures of mortgage or trust, or similar instruments, notes, and  
7 security interests in property, tangible or intangible and the  
8 revenues therefrom, of a participating party to which the  
9 ~~authority department~~ has made loans, and the revenues  
10 therefrom, including payment or income from any interest owned  
11 or held by the ~~authority department~~, for the benefit of the holders  
12 of bonds.

13 (j) Lease the project being financed to a participating party,  
14 upon terms and conditions that the ~~authority department~~ deems  
15 proper; charge and collect rents therefor; terminate any lease  
16 upon the failure of the lessee to comply with any of the  
17 obligations thereof; include in any lease, if desired, provisions  
18 that the lessee shall have options to renew the lease for a period  
19 or periods, and at rents determined by the ~~authority department~~;  
20 purchase any or all of the project; or, upon payment of all the  
21 indebtedness incurred by the ~~authority department~~ for the  
22 financing of the project, the ~~authority department~~ may convey,  
23 any or all of the project to the lessee or lessees. The power  
24 generated by those projects shall be subject to the terms and  
25 conditions specified by the ~~authority department~~ in the  
26 agreement and pursuant to Section 3351.

27 (k) (1) Issue, obtain, or aid in obtaining, from any department  
28 or agency of the United States, from other agencies of the state,  
29 or from any private company, any insurance or guarantee to or  
30 for, or any letter or line of credit regarding, the payment or  
31 repayment of interest or principal, or both, or any part thereof, on  
32 any bond, loan, lease, or obligation or any instrument evidencing  
33 or securing the same, made or entered into pursuant to this  
34 division.

35 (2) Notwithstanding any other provision of this division, enter  
36 into any agreement, contract or other instrument regarding any  
37 insurance, guarantee, letter or line of credit specified in  
38 paragraph (1), and accept payment in the manner and form  
39 provided therein in the event of default by a participating party.



1 (3) Assign any insurance, guarantee, letter or line of credit  
2 specified in paragraph (1) as security for bonds issued by the  
3 ~~authority department~~.

4 (l) Enter into any agreement or contract, execute any  
5 instrument, and perform any act or thing necessary or convenient  
6 to, directly or indirectly, secure the ~~authority's department's~~  
7 bonds or a participating party's obligations to the ~~authority~~  
8 ~~department~~, including, but not limited to, bonds of a participating  
9 party purchased by the ~~authority department~~ for retention or sale,  
10 with funds or moneys that are legally available and that are due  
11 or payable to the participating party by reason of any grant,  
12 allocation, apportionment, or appropriation of the state or  
13 agencies thereof, to the extent that the Controller shall be the  
14 custodian at any time of these funds or moneys, or with funds or  
15 moneys that are or will be legally available to the participating  
16 party, the ~~authority department~~, or the state or any agencies  
17 thereof by reason of any grant, allocation, apportionment, or  
18 appropriation of the federal government or agencies thereof; and  
19 in the event of written notice that the participating party has not  
20 paid or is in default on its obligations to the ~~authority~~  
21 ~~department~~, direct the Controller to withhold payment of those  
22 funds or moneys from the participating party over which it is or  
23 will be custodian and to pay the same to the ~~authority department~~  
24 or its assignee, or direct the state or any agencies thereof to  
25 which any grant, allocation, apportionment, or appropriation of  
26 the federal government or agencies thereof is or will be legally  
27 available to pay the same upon receipt to the ~~authority~~  
28 ~~department~~ or its assignee, until the default has been cured and  
29 the amounts then due and unpaid have been paid to the ~~authority~~  
30 ~~department~~ or its assignee, or until arrangements satisfactory to  
31 the ~~authority department~~ have been made to cure the default.

32 (m) Purchase, with the proceeds of the ~~authority's~~  
33 ~~department's~~ bonds, bonds issued by, or for the benefit of, any  
34 participating party in connection with a project, pursuant to a  
35 bond purchase agreement or otherwise. Bonds purchased  
36 pursuant to this division may be held by the ~~authority~~  
37 ~~department~~, pledged or assigned by the ~~authority department~~, or  
38 sold to public or private purchasers at public or negotiated sale,  
39 in whole or in part, separately or together with other bonds issued  
40 by the ~~authority department~~, and notwithstanding any other



1 provision of law, may be bought by the ~~authority~~ department at  
2 private sale.

3 (n) Enter into purchase and sale agreements with all entities,  
4 public and private, including state and local government pension  
5 funds, with respect to the sale or purchase of bonds.

6 *SEC. 273. Section 3341.1 of the Public Utilities Code is*  
7 *amended to read:*

8 3341.1. In connection with an enterprise, the ~~authority~~  
9 department may do any or all of the following:

10 (a) Acquire any enterprise by gift, purchase, or eminent  
11 domain as necessary to achieve the purposes of the ~~authority~~  
12 department pursuant to Sections 3310 and 3352.

13 (b) Construct or improve any enterprise. By gift, lease,  
14 purchase, eminent domain, or otherwise, it may acquire any real  
15 or personal property, for an enterprise, except that no property of  
16 a state public body may be acquired without its consent. The  
17 ~~authority~~ department may sell, lease, exchange, transfer, assign,  
18 or otherwise dispose of any real or personal property or any  
19 interest in ~~such~~ that real or personal property. It may lay out,  
20 open, extend, widen, straighten, establish, or change the grade of  
21 any real property or public rights-of-way necessary or convenient  
22 for any enterprise.

23 (c) Operate, maintain, repair, or manage all or any part of any  
24 enterprise, including the leasing for commercial purposes of  
25 surplus space or other space that is not economic to use for ~~such~~  
26 the enterprise.

27 (d) Adopt reasonable rules or regulations for the conduct of  
28 the enterprise.

29 (e) Prescribe, revise, and collect charges for the services,  
30 facilities, or energy furnished by the enterprise. The charges shall  
31 be established and adjusted so as to provide funds sufficient with  
32 other revenues and moneys available therefor, if any, to (1) pay  
33 the principal of and interest on outstanding bonds of the ~~authority~~  
34 department financing ~~such~~ the enterprise as ~~the same~~ they shall  
35 become due and payable, (2) create and maintain reserves,  
36 including, without limitation, operating and maintenance reserves  
37 and reserves required or provided for in any resolution  
38 authorizing, or trust agreement securing ~~such~~ the bonds, and (3)  
39 pay operating and administrative costs of the ~~authority~~  
40 department.



(f) Execute all instruments, perform all acts, and do all things necessary or convenient in the exercise of the powers granted by this article.

*SEC. 274. Section 3341.2 of the Public Utilities Code is amended to read:*

3341.2. In connection with a project, the ~~authority~~ department may do any or all of the following:

(a) Determine the location and character of any project to be financed under this division.

(b) Acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor, or regulate any project to be financed under this division.

(c) Contract with any participating party for the construction of a project by ~~such~~ the participating party.

(d) Enter into leases and agreements, as lessor or lessee, with any participating party relating to the acquisition, construction, and installation of any project, including real property, buildings, equipment, and facilities of any kind or character.

(e) Establish, revise, charge and collect rates, rents, fees and charges for a project. The rates, rents, fees, and charges shall be established and adjusted in respect of the aggregate rates, rents, fees, and charges from all projects so as to provide funds sufficient with other revenues and moneys available therefor, if any, to (1) pay the principal of and interest on outstanding bonds of the ~~authority~~ department financing ~~such~~ the project as ~~the same~~ they shall become due and payable, (2) create and maintain reserves, including, without limitation, operating and maintenance reserves and reserves required or provided for in any resolution authorizing, or trust agreement securing ~~such~~ the bonds, and (3) pay operating and administrative costs of the ~~authority~~ department.

(f) Enter into contracts of sale with any participating party covering any project financed by the ~~authority~~ department.

(g) As an alternative to leasing or selling a project to a participating party, finance the acquisition, construction, or installation of a project by means of a loan to the participating party.



(h) Execute all instruments, perform all acts, and do all things necessary or convenient in the exercise of the powers granted by this article.

*SEC. 275. Section 3345 of the Public Utilities Code is amended to read:*

3345. The ~~authority's~~ department's operating budget under this division shall be subject to review and appropriation in the annual Budget Act. For purposes of this section, the ~~authority's~~ department's operating budget under this division shall include the costs of personnel, administration, and overhead attributable to carrying out its duties under this division.

*SEC. 276. Section 3370 of the Public Utilities Code is amended to read:*

3370. (a) There is hereby created in the State Treasury the California Consumer Power and Conservation Financing Authority Fund for expenditure by the ~~authority~~ department for the purpose of implementing the objectives and provisions of this division. For the purposes of subdivision (e), or as necessary or convenient to the accomplishment of any other purpose of the ~~authority~~ department, the ~~authority~~ department may establish within the fund additional and separate accounts and subaccounts.

(b) The assets of the fund shall be available for the payment of the salaries and other expenses charged against it in accordance with this division.

(c) Except as provided under Section 3345, all moneys in the fund that are not General Fund moneys are continuously appropriated to the ~~authority~~ department and may be used for any reasonable costs which may be incurred by the ~~authority~~ department in the exercise of its powers under this division.

(d) The fund, on behalf of the ~~authority~~ department, may borrow or receive moneys from the ~~authority~~ department, or from any federal, state, or local agency or private entity, to create reserves in the fund as provided in this division and as authorized by the board.

(e) The ~~authority~~ department may pledge any or all of the moneys in the fund (including in any account or subaccount) as security for payment of the principal of, and interest on, any particular issuance of bonds issued pursuant to this division.



(f) The ~~authority~~ department, may, from time to time, direct the Treasurer to invest moneys in the fund that are not required for the ~~authority's~~ department's current needs, including proceeds from the sale of any bonds, in any securities permitted by law as the ~~authority~~ department shall designate. The ~~authority~~ department also may direct the Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The ~~authority~~ department may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of the Government Code. All interest or other increment resulting from an investment or deposit shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of the Government Code, excepting the Surplus Money Investment Fund.

*SEC. 277. Section 9502 of the Public Utilities Code is amended to read:*

9502. On or before December 1, 1994, and on a biennial basis thereafter, each publicly owned electric and gas utility shall submit a report to the ~~State Energy Resources Conservation and Development Commission~~ Department of Energy describing the status of their low-income weatherization programs required by Sections 9500 and 9501. Thereafter, as part of the biennial conservation report prepared pursuant to Section 25401.1 of the Public Resources Code, the ~~commission~~ department shall report to the Legislature summarizing publicly owned utility efforts to comply with Sections 9500 and 9501.

*SEC. 278. Section 80000 of the Water Code is amended to read:*

80000. The Legislature hereby finds and declares all of the following:

(a) The furnishing of reliable reasonably priced electric service is essential for the safety, health, and well-being of the people of California. A number of factors have resulted in a rapid, unforeseen shortage of electric power and energy available in the state and rapid and substantial increases in wholesale energy



costs and retail energy rates, with statewide impact, to such a degree that it constitutes an immediate peril to the health, safety, life and property of the inhabitants of the state, and the public interest, welfare, convenience and necessity require the state to participate in markets for the purchase and sale of power and energy.

(b) In order for the ~~department~~ *state* to adequately and expeditiously undertake and administer the critical responsibilities established in this division, it must be able to obtain, in a timely manner, additional and sufficient personnel with the requisite expertise and experience in energy marketing, energy scheduling, and accounting.

SEC. 279. Section 80001 is added to the Water Code, to read:

80001. The Department of Energy hereby succeeds to and is vested with all powers, duties, rights, assets, responsibilities, obligations, liabilities, and jurisdiction previously vested with the Department of Water Resources under this division. Whenever the term "department" is used in this division, it shall henceforth mean the Department of Energy. Any authority conferred upon the Department of Water Resources by any other provision of law for the purpose of carrying out any function described in this division is hereby vested in, and may be exercised by, the Department of Energy. The transfer of functions described in this division to the Department of Energy does not in any way invalidate or alter prior actions undertaken by the Department of Water Resources under this division and every instrument, obligation, rate entitlement, or other rights resulting from the prior actions remain fully in effect.

SEC. 280. Section 80001.5 is added to the Water Code, to read:

80001.5. (a) All officers and employees of the Department of Water Resources who, on the operative date of this section, are serving in the state civil service, other than as temporary employees, and are exercising any duty, power, purpose, responsibility, or jurisdiction to which the Department of Energy succeeds pursuant to Section 80001, are transferred to the Department of Energy. The status, positions, and rights of those persons existing prior to the transfer shall not be affected by the transfer and shall be retained by those persons as officers and employees of the Department of Energy, pursuant to the State



1 *Civil Service Act (Part 2 (commencing with Section 18500) of*  
2 *Division 5 of Title 2 of the Government), except as to positions*  
3 *exempted from civil service.*

4 *(b) The Department of Energy shall have possession and*  
5 *control of all records, papers, offices, equipment, supplies,*  
6 *moneys, funds, appropriations, licenses, permits, agreements,*  
7 *contracts, claims, judgments, and land or other property, real or*  
8 *personal, connected with the administration of, or held for the*  
9 *benefit or use of the Department of Water Resources for the*  
10 *performance of the functions transferred to the Department of*  
11 *Energy by Section 80001.*

12 *(c) All rules, orders, and decisions of the Department of Water*  
13 *Resources in effect immediately preceding the effective date of*  
14 *this section shall remain in effect and shall be fully enforceable*  
15 *unless and until readopted, amended, or repealed, or until they*  
16 *expire by their own terms.*

17 *(d) No contract, lease, license, bond, or any other agreement*  
18 *to which the Department of Water Resources is a party shall be*  
19 *void or voidable by reason of the transfer of functions to the*  
20 *Department of Energy by Section 80001, but shall continue in*  
21 *full force and effect, with the Department of Energy assuming all*  
22 *of the rights, obligations, liabilities, and duties of the Department*  
23 *of Water Resources. The assumption by the Department of*  
24 *Energy shall not in any way affect the rights of the parties to the*  
25 *contract, lease, license, bond, or other agreement.*

26 *SEC. 281. The provisions of this act are severable. If any*  
27 *provision of this act or its application is held invalid, that*  
28 *invalidity shall not affect other provisions or applications that*  
29 *can be given effect without the invalid provision or application.*

30 ~~SECTION 1. Section 25519 of the Public Resources Code is~~  
31 ~~amended to read:~~

32 ~~25519. (a) In order to obtain certification for a site and~~  
33 ~~related facility, an application for certification of the site and~~  
34 ~~related facility shall be filed with the commission. The~~  
35 ~~application shall be in a form prescribed by the commission and~~  
36 ~~shall be for a site and related facility that has been found to be~~  
37 ~~acceptable by the commission pursuant to Section 25516, or for~~  
38 ~~an additional facility at a site that has been designated a potential~~  
39 ~~multiple-facility site pursuant to Section 25514.5 and found to be~~  
40 ~~acceptable pursuant to Sections 25516 and 25516.5. An~~



1 application for an additional facility at a potential  
2 multiple-facility site shall be subject to the conditions and review  
3 specified in Section 25520.5. An application may not be filed for  
4 a site and related facility, if there is no suitable alternative for the  
5 site and related facility that was previously found to be  
6 acceptable by the commission, unless the commission has  
7 approved the notice based on the one site as specified in Section  
8 25516.

9 (b) The commission, upon its own motion or in response to the  
10 request of any party, may require the applicant to submit any  
11 information, document, or data, in addition to the attachments  
12 required by subdivision (i), that it determines is reasonably  
13 necessary to make any decision on the application.

14 (c) (1) The commission shall be the lead agency as provided  
15 in Section 21165 for all projects that require certification  
16 pursuant to this chapter and for projects that are exempted from  
17 that certification pursuant to Section 25541.

18 (2) Unless the commission's regulatory program governing  
19 site and facility certification and related proceedings is certified  
20 by the Resources Agency pursuant to Section 21080.5, an  
21 environmental impact report shall be completed within one year  
22 after receipt of the application.

23 (3) If the commission's regulatory program is certified  
24 pursuant to Section 21080.5, any other public agency that must  
25 make a decision that is subject to the California Environmental  
26 Quality Act, Division 13 (commencing with Section 21000), on a  
27 site or related facility, shall use the proposed decision of the  
28 commission or of a committee of the commission, prepared in  
29 advance of the final decision under the commission's certified  
30 regulatory program, that describes the project, analyzes the  
31 significant environmental impacts of the project, and discusses  
32 feasible alternatives and mitigation measures that could avoid or  
33 minimize the project's significant adverse impacts. The agency  
34 shall use that document in the same manner as it would use an  
35 environmental impact report or negative declaration prepared by  
36 a lead agency. Prior to completing the final staff assessment or  
37 other environmental document, the commission or its staff shall  
38 consult with all agencies that inform the commission of the need  
39 to review an environmental document to make a decision on a  
40 site or related facility. The purpose of the consultation shall be to



1 assist the commission or its staff in determining the scope and  
2 content of environmental review related to each agency's  
3 concerns and area of expertise.

4 (d) If the site and related facility specified in the application is  
5 proposed to be located in the coastal zone, the commission shall  
6 transmit a copy of the application to the California Coastal  
7 Commission for its review and comments.

8 (e) If the site and related facility specified in the application is  
9 proposed to be located in the Suisun Marsh or the jurisdiction of  
10 the San Francisco Bay Conservation and Development  
11 Commission, the commission shall transmit a copy of the  
12 application to the San Francisco Bay Conservation and  
13 Development Commission for its review and comments.

14 (f) Upon receipt of an application, the commission shall  
15 forward the application to local governmental agencies having  
16 land use and related jurisdiction in the area of the proposed site  
17 and related facility. Those local agencies shall review the  
18 application and submit comments on, among other things, the  
19 design of the facility, architectural and aesthetic features of the  
20 facility, access to highways, landscaping and grading, public use  
21 of lands in the area of the facility, and other appropriate aspects  
22 of the design, construction, or operation of the proposed site and  
23 related facility.

24 (g) Upon receipt of an application, the commission shall cause  
25 a summary of the application to be published in a newspaper of  
26 general circulation in the county in which the site and related  
27 facilities, or any part thereof, designated in the application, is  
28 proposed to be located. The commission shall transmit a copy of  
29 the application to each federal and state agency having  
30 jurisdiction or special interest in matters pertinent to the proposed  
31 site and related facilities and to the Attorney General.

32 (h) Local and state agencies having jurisdiction or special  
33 interest in matters pertinent to the proposed site and related  
34 facilities shall provide their comments and recommendations on  
35 the project within 180 days of the date of filing of an application.

36 (i) The adviser shall require that adequate notice is given to  
37 the public and that the procedures specified by this division are  
38 complied with.

39 (j) For any proposed site and related facility requiring a  
40 certificate of public convenience and necessity, the commission



1 ~~shall transmit a copy of the application to the Public Utilities~~  
2 ~~Commission and request the comments and recommendations of~~  
3 ~~the Public Utilities Commission on the economic, financial, rate,~~  
4 ~~system reliability, and service implications of the proposed site~~  
5 ~~and related facility. If the commission requires modification of~~  
6 ~~the proposed facility, the commission shall consult with the~~  
7 ~~Public Utilities Commission regarding the economic, financial,~~  
8 ~~rate, system reliability, and service implications of those~~  
9 ~~modifications.~~

10 ~~(k) The commission shall transmit a copy of the application to~~  
11 ~~any governmental agency not specifically mentioned in this act,~~  
12 ~~but which it finds has any information or interest in the proposed~~  
13 ~~site and related facilities, and shall invite the comments and~~  
14 ~~recommendations of each agency. The commission shall request~~  
15 ~~any relevant laws, ordinances, or regulations that an agency has~~  
16 ~~promulgated or administered.~~

17 ~~(l) An application for certification of any site and related~~  
18 ~~facilities shall contain a listing of every federal agency from~~  
19 ~~which any approval or authorization concerning the proposed site~~  
20 ~~is required, specifying the approvals or authorizations obtained at~~  
21 ~~the time of the application and the schedule for obtaining any~~  
22 ~~approvals or authorizations pending.~~

23  
24  
25 **CORRECTIONS:**

26 **Title — Line 41.**

27 **Text — Pages 12, 18, 32, 33, 34, 35, 68, 74, 77, 87, 88, 89, 93, 95, 96, 97, 101, 103,**  
28 **114, 116, 120, 142, 147, 163, 164, 165, 168, 172, 177, 184, 186, 187, 195, 217, 221,**  
29 **231, 235, 245, 247, and 255.**